Office of Deputy Dean (Research and Postgraduate)
Kulliyyah of Economics and Management Sciences
International Islamic University Malaysia

MEMORANDUM

To : All KENMS Academic Staff and Postgraduate Students

From : Dr. Hafiz Majdi Ab. Rashid
Deputy Dean (Research and Postgraduate)

Date : 6th December 2005

Subject : **PRESENTATION OF MASTERS DISSERTATION / RESEARCH PAPER**

Dear Prof. / Assoc. Prof. / Dr. / Br. / Sr.

السلام عليكم ورحمة الله وبركاته

The presentation of the following student has been scheduled as follows:

Date / Day/ Time / Venue	**Presenter / Students no / Programme**	**Supervisor(s)**	**Title**
16th December 2005 (Friday) 03:30 pm Seminar Room 3, Level 1, KENMS	Hisham Hj Yaacob G0323385 MSC ACC	Dr. Shahul Hameed Hj Ibrahim	WAQF ACCOUNTING IN MALAYSIAN STATE ISLAMIC RELIGIOUS INSTITUTIONS: THE CASE OF FEDERAL TERRITORY SIRC

All are invited to attend the presentation. Thank you. والسلام

WAQF ACCOUNTING IN MALAYSIAN STATE ISLAMIC RELIGIOUS INSTITUTIONS: THE CASE OF FEDERAL TERRITORY SIRC

BY

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CHAPTER 1

INTRODUCTION

1.1 Background of the study

The revivification of Islam in the late twentieth century, especially in Malaysia (Yousif, 2004), has created great demands for the Muslim Ummah to align in every aspect of their life with Islam, as promulgated by Islamic teaching. This is the practicalization of the concept of *Tawhid,*[1] an Arabic term which literally means, "making one" or "unifying", which refers to the 'oneness of God'. This implies a total submission to the will of God (Baydoun and Willet, 1997). In this worldview, Allah (*s.w.t.*) created human beings as the *Khalifah* (vicegerence), to act as God's trustee in this world. Therefore, human beings' conduct should be guided by the aim of attaining the pleasure of Allah (*s.w.t.*) to achieve *falah* (success) in this world and in the hereafter (see Abdalati, 1988; Chapra, 1992; Bilal Philips, 1994).

Based on the concept of *Tawhid*, Islam views wealth (*Maal*) differently compared to the conventional Western views on property. There are at least two elements to determine wealth from the Islamic worldview[2]; (1) something that may be kept, accumulated and owned, and (2) something that is useful and beneficial (Nik Mohd Zain and Azimuddin,

[1] *Tawhid* is the proclamation of Allah *(s.w.t.)* as the only God and it is the essence of the Islamic faith (Prayitno, 2003). Indeed, there is no mention of the term in the *Qur'an.*

[2] Western worldview is a separation of the sacred and worldly matters, whereas an Islamic worldview encompasses both *al-dunya* (worldly) and *al-akhirah* (the hereafter) in which the *dunya* is profoundly inseparable from the *akhirah* (Al Attas, 2001; see also Shahul, 2000).

1999). Islam upholds justice and fairness in the distribution of wealth. It is one of the obligations of the human beings, as the *Khalifah,* to manage wealth responsibly (waqf, for instance) as trustee[3]. The proper management of wealth is essential because man will be held accountable in the hereafter for his duties in this world[4]. Since wealth in Islam is considered as the factor of production from the economic point of view, the hoarding of wealth is strongly prohibited (Syafei et al., 2004). Thus, to encourage circulation of wealth, all wealth that is not utilized for a period of one year with certain *nisab* (value) will be liable for *zakat* at a prescribed rate by the *shari'ah*[5] (Syed Othman, 1986). Circulation of wealth (through waqf) contributes to the socio-economic strength and stability of the *Ummah*. Therefore, waqf (endowment) is encouraged in Islam.

Waqf is derived from the root word "*waqafa*" which literally means "confinement and prohibition" or causing a thing to stop or stand still (Hassan, 1984). There are many definitions of waqf; however, we are going to look at only a few of them. The first is by Sheikh Abu Zahra who defines waqf as "the non-negotiability of property ownership which is of employable value, and the directions of its benefits to a certain charitable purpose, once and for all" (Hassan, 1984). Another classical definition by *Qadi* Abu Yusuf, which has been adopted by a vast majority of Hanafi *fuqaha* (scholars), regards waqf as "taking the corpus of any property, out of the ownership of oneself, transferring it

[3] In Islam, Allah *(s.w.t.)* is the ultimate owner of all wealth; ownership by individuals is an *amanah* for people as God's trustees (Mirza and Baydoun, 2000). The same concept applies in waqf as the *mutawalli* is a trustee in managing the waqf property (*maal*), therefore, the *mutawalli* is accountable for discharging the *amanah* given to him by the *waqif.*

[4] Further elaboration on the concept of accountability is presented in Chapter Four.

[5] Chapra and Khan (2000) define the *shari'ah* as the divine guidance, which is given by the *Qur'an* and the *Sunnah* and embodies all aspects of the Islamic faith, including beliefs and practices.

permanently to the ownership of Allah *(s.w.t.)*, and dedicating its usufruct to others" (Hashmi, 1984).

Meanwhile, according to Kahf (1998), Waqf may be generally defined as the holding of an asset (*Maal*) and preventing its consumption for the purpose of repeatedly extracting its usufructs for certain righteous benefit as predetermined by the waqf founder (*waqif*). Qasmi (1999) gives a much simpler meaning, waqf means tying up the *asl* (subject matter of the waqf property) and utilization of usufruct for the purposes recognized by the Islamic *shari'ah* as pious and sacred. Hence, it can be generalized from the waqf definitions that once a property becomes a waqf, its ownership is transferred to Allah *(s.w.t.)* and the usufruct is allocated for pious purposes in accordance with the Islamic *shari'ah*.

In this study, only the waqf[6], which is a pious foundation, is taken into consideration as it could provide the solution to many of the social and economic problems of the Muslims. Examples of the social and economic problems include poverty alleviation (Sadeq, 2002; Hoexter, 1998) and capital financing (Cizakca, 1998). However, the Muslims of today are ignorant and have not paid much attention to waqf. Undoubtedly, waqf has a huge potential to develop the Muslims' economy (Nik Mustapha, 1999). However, the lack of research on contemporary issues surrounding the waqf hinders the effort to develop and sustain the waqf in the most effective and efficient way. It is, indeed, very stimulating to discover that the waqf has played such an important role in the Muslim community in the

[6] Waqf is also known as *boniyad* or *habs* or *habous* in Iran and North Africa (Cizakca, 1998).

past and it is self-sustainable. That means the government need not find the funds to finance public goods that have been provided by the waqf institution, for example, hospitals[7], education (a good example is the Ayyubid and the Mamluk[8] Waqf Institution for schools in Palestine, as quoted in Kahf, 1994), the construction and maintenance of public goods apart from other common utilities such as *Masjid* and roads (Cizakca, 1998; Nasution, 2002).

In fact, long before the establishment of Western education, Islamic education was provided free to those who wanted to seek knowledge and even the teachers were also paid from the waqf fund. In the early Madinah state, the institution of waqf (non-profit trust) was also established to provide free drinking water to the poor and the inhabitants of the state (Kahf, 1994; Sadeq, 2002; Razali, 2004). The waqf fund has also been used to provide interest-free financial aid to the poor and destitute.

Even though there has been many studies in waqf i.e. Razali (2004); Khalid (2002); Haque (2002); Nasution (2002); Nik Mustapha (1999); Mahmood (1999), research on the financial management and accounting of waqf has failed to be the subject of contemporary studies except for a few (Hoexter, 1998; Abdul Rahim et al., 1999; Siti Rokyah, 2004). Recent developments in Islamic economics, accounting and finance have seen that waqf has been reemphasized. To date, in Peninsular Malaysia, the SIRCs are

[7] Yedyyildiz (1996) provides an example that Ahmed Shah and Turan Melek founded a waqf complex consisting of a hospital (*darussifa*) and a *Masjid* during the Mengujeks' time between 1228 and 1231.
[8] An example of a school founded by a scholar in Mamluk times is the Madrasa al Jawhariyya, founded by Qadi Abu al Tahir Abbas al-Tamimi al Jawhari. The document in which the foundation is recorded comprises seven waqf deeds (Kitab al-waqf), dating from 1277 until 1310. The *waqfiyyas* show a combination of an endowment for the benefit of the family and descendants of the founder and the upkeep of an institution serving public interests (Van Leeuwun, 1999, p.79).

maintaining the waqf accounts by incorporating them into their financial statements. There is no proper recording of waqf assets and liabilities, revenues and expenses. The worst-case scenario is that SIRCs do not even keep up-to-date waqf accounts (Abdul Rahim et al., 1999).

It is a fact that accounting is one of the tools to properly manage wealth, but it must be done in accordance to the *shari'ah*. Akram Khan (1994a) asserts that the accounting needs, in an Islamic society, should be based on the concept of *Tawhid,* where the concept of *Khalifah* is derived. Men as the *Khalifah* (vicegerent or trustee) of Allah *(s.w.t.)* have been granted a certain amount of freedom[9] to conduct their affairs with justice and benevolence to fulfill the stewardship role towards the Creator and fellow mankind.

It can be inferred here that even in accounting for waqf[10], the *shari'ah* must be fully abided by. Though it is understood that the complete structure of "Islamic accounting" is not in place yet, this is not an excuse as to why the waqf accounts should not follow the existing guidelines on Islamic accounting i.e. AAOIFI. Hence, the adoption of conventional accounting in the whole aspect of the waqf accounts is seen as inappropriate as there are a lot of differences between an Islamic entity and the non-Islamic entity especially in terms of their objectives. The basic difference, according to Akram Khan (1994a), is that the implicit assumptions of conventional accounting are to enhance the

[9] Freedom in this context does not mean absolute freedom, that is, man can do whatever they want. All the Islamic jurists and scholars attested that the *shari'ah* is the rule of law for man (see Naqvi, 1981).

[10] Since the word waqf has become part of the English language, it will not be italicized in this study (source: Cizakca, 1998) except for a special noun i.e. *waqf al awlad.*

framework and spirit of capitalism[11] which are: property is privately owned, and business is to maximize profit. Hence, according to conventional economics, human beings are assumed to be selfish and, therefore, will maximize their own satisfaction and interest rather than the interest of society (Shahul, 2000).

Baydoun and Willet (2000) further assert that there is a clear separation between the economic activities with religion in the West. The West accepted the 'survival of the fittest' as the best rule for long-term strategy. All the above ideologies influence the concepts of conventional accounting. On the other hand, Islam suggests that cooperation i.e. in economics, for existence should be the way of life in line with the concept of *Tawhid* (Nik Mustapha, 1999).

It has been understood from the *Qur'an* that *riba'* (usury) is prohibited in any transaction[12] (Mirza and Baydoun, 2000). However, business or trade is permitted, and that trade is not the same as *riba'* is emphasized very clearly in the *Qur'an* (*Surah Al Baqarah*, 274-275). Therefore, accounting which serves as a tool to record and report transactions, particularly waqf transactions, must adhere to the *shari'ah* guidelines and the engagement of *riba'* based activities is prohibited in waqf. As waqf is involved with social and economic agenda for the *maslahah*, there are two general objectives of social accountability and full disclosure that should underlie the preparation of any Islamic corporate report (Baydoun and Willet, 1997), especially the waqf report. The objectives of Islamic accounting will be discussed further in the fourth chapter.

[11] Also known as 'Market economy'.
[12] See also Shahul (2000), Chapter 4.

To summarize, this study argues that waqf administration and management, which include waqf accounting, are under the purview of the concepts of *Tawhid* and *Khalifah,* where Allah *(s.w.t.)* creates human beings as His trustee in this world. Therefore, the *shari'ah* that the *Qur'an* and the *Sunnah* provide should be the ultimate law in managing wealth, especially in the form of waqf, which aims at the social and economic duties towards the *maslahah*. Any breach of the *shari'ah* should not be tolerated. It is the responsibility of the Muslim *ummah* to resolve the problems faced by waqf and to find the best solutions to achieve the waqf objectives and subsequently to achieve *falah*. This research is a humble attempt in this direction.

1.2 Objectives of the study

This study has three main objectives. The first one is to review, understand and document the current waqf administrative and management practices with special focus on the accounting practices[13] as practiced by the Federal Territory SIRC. The legislative and policy sources are reviewed to obtain an understanding of its mechanism. The second objective is to identify problem areas and also to compare the Statement of Recommended Practice (SORP 2005) from the Charity Commission in the United Kingdom with the existing Federal Territory SIRC waqf financial and accounting policies, procedures and practices. The third objective is to come up with a policy

[13] The rationale why the SIRC in Malaysia adopts different practices is that in the Malaysian Constitution, the state has the ultimate authority to determine regulations on Islamic matters. Different states may adopt different approaches that contain some differences in the provisions of certain religious matters (Ahmad Ibrahim, 1999).

recommendation on best management and accounting practices to increase public accountability with reference to the policies and procedures of the SORP 2005 with modification required under the Islamic *shari'ah*.

1.3 Motivation of the study

As a result of the increase in the understanding of Islam, currently, many Islamic organizations are going through reforms and reconstruction to ensure that the correct practices are in place. Islamic scholars in various fields such as *fiqh* are trying to resolve many of the problems that arose during the non-development of Islam i.e. law since the collapse of the *Uthmaniah Khilafah*[14]. This research is carried out to enable a better understanding of waqf and, at the same time, provide some suggestions for its improvement.

1.4 Contribution of the study

This study is intended to contribute to the present waqf literature. It is a first attempt to fill in the void in the literature on the accounting aspects of waqf. It is hoped that further understanding will greatly enhance and improve the state of waqf in the near future in terms of its administration and management. Hopefully, this study will provide something of economic value and be referred to by other SIRC in terms of waqf

[14] Many Islamic historical records are archived by the West especially by the British Museum, in France and also in the Netherlands, but they are hardly available for the Muslims to conduct research in those areas.

administration and management. This study emphasizes the financial and accounting aspects to enable a more appropriate and proper discharge of SIRC's (as trustee) accountability towards the *waqif* who has endowed their property for the benefit of the Muslim *Ummah*. Undeniably, more research is needed in the financial area and this study will contribute towards the achievement of the desirable state of waqf administration and management to attain the *maqasid al shari'ah* [15].

1.5 Scope of the study

The scope of this research is on the administrative, managerial and accounting aspects of waqf. However, it will also touch on the legislative aspects where relevant, especially in the Malaysian (Islamic religious institutions) environment. As this is a case study of an exploratory and descriptive nature, the research method is more qualitative and less quantitative statistics are used.

1.6 Organization of the thesis

The research report is organized into eight chapters. The Introduction is the first chapter. This chapter begins with the background of the study. This is followed by the objectives,

[15] According to Al Ghazali, there are five *maqasid* (objectives of the *shari'ah*) namely the protection of the religion or faith, life, intellect (*aql*), posterity (*nasl*) and wealth (*maal*). The jurists of the Maliki and Hanbali schools contended that the *maqasid* could be divided into three categories of *Daruriyah* (essential or absolute necessity), *Hajiyah* (complementaries or good to have) and *Tahsiniyah* (embellishment or non-essential). The five described by Al Ghazali fall under the *Daruriyah* category (see Ahmad Ibrahim, 2000, p156)

motivation and contribution of the study. Next, the scope of the study that outlines the focus of this research is mentioned. The rest of the thesis is organized as follows:

Chapter Two is on the contemporary history of waqf management. It discusses the introduction to the waqf regulatory and legislative framework followed by a brief review of the types of waqf available. Subsequently, the discussion delves into the history and background of waqf in Malaysia with a review of the historical and legal framework. Some legal issues in the Malaysian context are also presented to provide a clear understanding of the differences between the civil law and the *shari'ah* in the country. A summary and conclusion will then end the chapter.

Chapter Three presents a review of the extant literature on waqf, which includes theoretical and empirical studies. This chapter is divided into two sections of waqf literature; the first section reviews the literature on other countries outside Malaysia and the second section concentrates on waqf literature within the Malaysian environment especially studies on financial aspects and management of waqf. A summary of the waqf literature and conclusion ends this chapter.

Chapter Four is presented in two sections; the basic discussion of the background and issues in Islamic accounting theoretical frameworks[16]. The first section ends with the argument of fundamentals of Islamic accounting and the unsuitability of conventional accounting. The second section presents a review of SORP 2005. Although not much of

[16] It highlights a few accounting issues such as the issues of recognition, measurement and valuation, and disclosures. It also incorporates the ongoing controversial issues of Historical cost versus Current cost.

the literature is directly related to the aspects of accounting for waqf, the study hopes that the SORP 2005, which is based on the conventional accounting, may later be incorporated into the discussion of accounting in the Islamic setting.

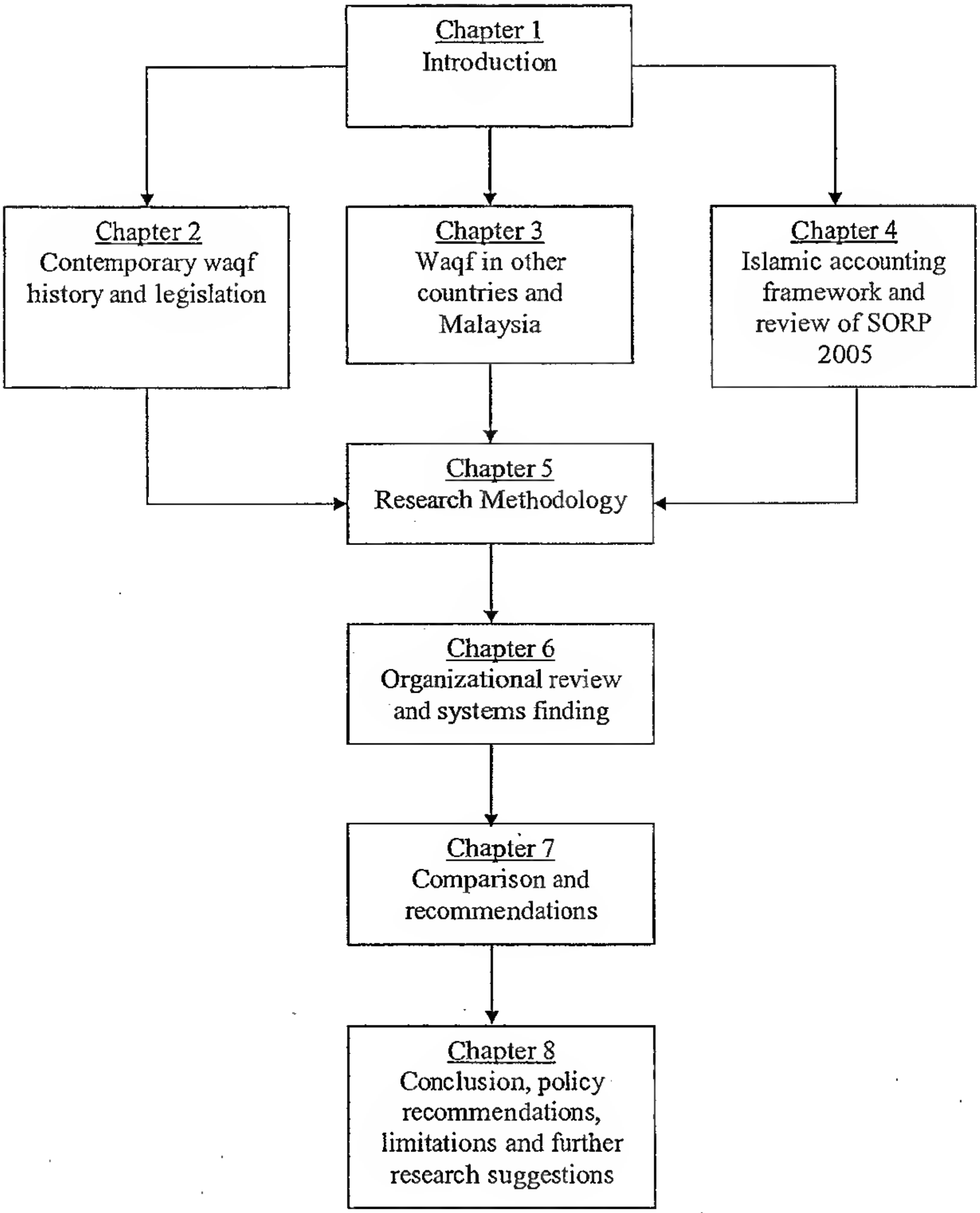
In Chapter Five, the research methods used for the research are presented. The discussion of the research methods includes the research questions, data collection techniques and sample selection. This chapter also discusses validity issues. Then, the statistical analysis (simple statistical tests) is presented before the chapter ends with a summary and conclusion.

Meanwhile, Chapter Six presents the Federal Territory SIRC organizational review with findings on the management and accounting procedures and systems in the SIRCs together with the main references of their operation, some of which has been found by Siti Rokyah (2004). However, there is some disagreement from the findings of this study. A synopsis is given on the enactments discussed. This chapter becomes the main source of some policy recommendations provided in Chapter Seven.

In Chapter Seven, the syntheses of the study are offered. Results are analyzed here where the findings are compared with SORP 2005 to garner the essence of the study. Most importantly, the policy recommendations for the relevant authorities on waqf management and accounting best practices are also included here.

Chapter Eight is the final chapter. A summary of the research is presented and the conclusions drawn from the results of the study are discussed in this chapter. Next, some policy recommendations are presented. In addition, Chapter Eight also discusses the limitations of the study and makes suggestions for further research. Figure 1.1 on the next page gives a brief explanation of the relationship of the chapters in this study.

Figure 1.1: Relationship of the chapters



CHAPTER 2

CONTEMPORARY WAQF HISTORY AND LEGISLATION

2.1 Introduction

It is very important for any Islamic study that the source or authority be discussed and reiterated to ensure the body of knowledge is within the *shari'ah* framework, otherwise the objective of such studies would not be considered legitimate in Islamic scholarship. Having said that, the sources of the waqf are derived from the *Qur'an* and the *Sunnah*[17] (*ahadith*) of the Prophet (*s.a.w.*), which is presented in the next section. After that, the types of waqf will be discussed and then the history and waqf background within the legal scope in Malaysia are presented. This chapter ends with a summary and conclusion.

2.2 Waqf Legal Framework – An Islamic perspective

Although charitable endowments have been practiced by earlier civilizations i.e. Mesopotamia, Greece and Rome, there was no comprehensive legislation governing charitable endowments unlike the Islamic jurisdiction on waqf (Zain, 1982). Even though there is not a single verse in the *Qur'an* that deals specifically with waqf, Islamic scholars and jurists (the four prominent schools of thought, Shafie, Hanbali, Maliki and Hanafi)

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[17] *Al Qur'an* and *Sunnah* of the Prophet (*s.a.w.*) is the primary source of the *shari'ah* while the secondary source is derived from human reasoning and interpretation (*Ijtihad*) by Islamic jurists that is *Ijma'* (consensus among the *ulama'*) and *Qiyas* (views of individual jurists) (Ahmad Ibrahim, 2000).

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have agreed that a few of the following verses are to be referred to as the source of the subject matter (Hassan, 1984). In *Surah Al Imran, ayat* 92, Allah (*s.w.t.*) says, "*By no means shall ye attain righteousness unless ye give (freely) of that which ye love; and whatever ye give, of a truth God knoweth it well*". The verse states that Muslims will not be rewarded with goodness unless they are willing to give their best to others. The gift must be of value and which is dear to the giver. The perfect example of the value of a gift may be learnt from the history of the sons of Prophet Adam (*a.s.*), Qabil and Habil who prepared sacrifices or *qurban* in the name of Allah (*s.w.t.*). One gave some defective items and was rejected, whereas the other gave the most healthy and beloved animals and was accepted by Allah (*s.w.t.*). A good Muslim should give anything that is good, useful and valuable to achieve the pleasure of Allah (*s.w.t.*) (Imtiaz, 1988).

In another *ayat* of *Surah Al Hajj* (77), "*O ye who believe! bow down, prostrate yourselves, and adore your Lord; and do good; that ye may prosper* ". Allah (*s.w.t.*) commanded human beings to do good things (waqf will provide benefits for the *maslahah,* thus it is considered a righteous deed) only then will mankind live in prosperity. So, doing good things is also considered as an act of worship or *ibadah* towards Allah (*s.w.t.*). Allah (*s.w.t.*) further says in *Surah Al Nahl, ayat* 97, "*Whoever works righteousness, man or woman, and has Faith, verily, to him will We give a new Life, a life that is good and pure and We will bestow on such their reward according to the best of their actions*". Allah (*s.w.t.*) will reward all believers, irrespective of man or woman handsomely for all their good deeds. It can be inferred here that the act of waqf is

not constrained to Muslim men but is also open to women and verily Allah (*s.w.t.*) is the Most Gracious and the Most Merciful.

Another motivation is a *hadith* related by Abu Da'ud, where the Prophet (*s.a.w.*) says, "Paradise is the home of the generous". Muslims are encouraged to give a portion of their wealth to the poor and needy not just in terms of zakat but for other good causes such as the building of *Masjid* (Mosque), hospitals and schools. Consequently, such Muslims will be rewarded with *Jannah* (paradise) as their home in the hereafter (Ghazi and Ghazi, 1991).

However, giving *sadaqah* and being generous should not be done beyond one's means, as clearly seen by the following *hadith*. Jabir reported: a person from the *Banu Indhra* set a slave free after his death (it is common practice to say to the slave that he could be free after the owner's death). This news reached the Messenger of Allah (*s.a.w.*) and upon this he said: Have you any property beside it? He said no. The Holy Prophet (*s.a.w.*) saw that the charity that this man was showing in setting the slave free was beyond his capacity. If the slave was set free in this manner, there would be nothing left for the family to fall back upon in times of adversities. Upon this he said, who would buy this slave from me? Nuai'm bin Abdullah bought him for eight hundred *dirhams* and (this amount) was brought to the Messenger of Allah (*s.a.w.*) who returned it to him (the owner) and then said: Start with your own self and spend it on yourself (This does not mean that the major part should be spent on oneself).

What it implies is that one should not neglect oneself in meeting one's genuine need. And if anything is left it should be spent on one's family, if anything is left (after meeting the needs of the family) it should be spent more on distant relatives then friends. Therefore, the order in which we should spend our wealth has been elucidated. First, on one's own self, then one's wife and children then on relatives and friends and then for other good deeds. This *hadith* also makes it clear that spending should not be confined to one sector only but to all sectors so that no sector will be deprived of its due share.

There is also the *hadith* of Umar who acquires a piece of land in Khaibar and then goes to see the Prophet (*s.a.w.*) about his new asset. He tells the Prophet (*s.a.w.*) that he has acquired a good piece of land in Khaibar and he asks what he should do with it. The Prophet (*s.a.w.*) tells him to keep the land if he likes it. However, if he held the land for charity (to *sadaqah* the usufruct) it is much better for him and Allah (*s.w.t.*) Knows best. So, Umar declared the piece of land as a waqf and denoted part of the usufruct for his descendants and another part for charities[18]. The practice was then followed by other *sahabah* like Abu Thalhah as narrated by Anas ibn Malik, 'Abu Thalhah was one of the richest *sahabah* who owned an exquisite date garden called *Birhaa*. The Holy Prophet (*s.a.w.*) used to go there for a drink from its cool and clean water. Then, came the revelation of the *ayat* "you will not attain complete righteousness, before you give some of your beloved belonging". Abu Thalhah went to see the Prophet (*s.a.w.*) and declared the *Birhaa* garden as a *sadaqah*. The Holy Prophet (*s.a.w.*) was really happy on hearing

[18] Hadith narrated by Al Bukhari, Kitab 55 Chapter 28 in Sahih Al Bukhari; see also Zain (1982); Baharuddin (1998); and Mahmood (1999).

him and asked him to *sadaqah* the garden to his children and relatives' (Imam Malik, hadith no. 1828; Hassan, 1984).

Therefore, as mentioned above, one's wealth can be rightfully spent on one's children and relatives; and considered a good deed, through the establishment of waqf. Abu Bakr, Muaz ibn Jabal and Saad ibn Waqas were among the *sahabah* who had also established earlier waqf (Hashmi, 1984). Hasanuddin (1998) in his study argues that the institution of waqf developed in the first *hijri* year and gained its legal form in the second *hijri* year. There are several types of waqf. Two of the types will be discussed in the following paragraphs. One is in relation to spending towards one's family, and other is regarding one of the earliest kinds of waqf.

The following *ahadith* are related to the *waqf fi ahli* (family waqf) or the *waqf al awlad* (waqf for children). This type of waqf is neither practiced nor legal in Malaysia. It has also been abolished in India, Algeria and many other Muslim countries due to foreign occupation. Islam regards highly those who are excellent in spending on their own family and servants, and considers it a sin if one neglects or withholds their subsistence. Abu Huraira reported that Allah's Messenger (*s.a.w.*) said: of a *dinar* you spend as a contribution in Allah's path, or to set free a slave, or as a *sadaqah* given to a needy person, or to support your family, the one yielding the greatest reward is that which you spend on your family[19]. It is also reported that Allah's Messenger (*s.a.w.*) said: The most excellent *dinar* is one that a person spends on his family, and the *dinar* which he spends

[19] Sahih Muslim, *hadith* no. 2181.

on his animal in Allah's path, and the *dinar* which he spends on his companions in Allah's path[20]. Thus, the practice of waqf is considered a *sadaqah*, which is highly valued by Allah (*s.w.t.*) and is confirmed to receive the greatest reward as mentioned by the Prophet Muhammad (*s.a.w.*).

Hence, the first waqf in the Islamic jurisprudence was set by the Prophet Muhammad (*s.a.w.*) himself who built the Masjid Quba' in the hijrah to Madinah. The Masjid Nabawi followed this, which is also in Madinah (Hasanuddin, 1998). Meanwhile, the first *waqf khayri* is the waqf of seven gardens by a *sahabah*, a Jew named Mukhayriq who was killed in the battle of Uhud. He made a will that in the event of his death; all his property would go to Prophet Muhammad (*s.a.w.*). The Holy Prophet (*s.a.w.*) accepted the waqf and named Mukhayriq as the best of Jews[21] (Mohd Daud, 1999).

After introducing the most beneficial and the earliest types of waqf, the elements of waqf are discussed. Four conditions or elements must be fulfilled (1) *Waqif* – the person who will be the endower or the founder: *Waqif* must have attained the age of *baligh* and be of sound mind, the act of doing waqf must also be done voluntarily; (2) *Mauquf* - the property or capital – existing property or capital must be completely owned by the *waqif* and be free from any encumbrances[22]; (3) *Mauquf 'alaih* - beneficiaries – whether family members, descendants, or the poor and the public (ummah), the recipients must not be of,

[20] Sahih Muslim, *hadith* no. 2180.

[21] Moshe (1998) provides a comprehensive review of the history of the earlier waqf, tracing the sources and events, which led to most waqf by the earlier Muslims in the Holy Prophet's (*s.a.w.*) era. Moshe (1998) also argues that Abu Bakr pioneered the *waqf fi ahli* by declaring his house as a waqf for his descendants.

[22] Yedyyildiz (1996) asserts that in order to dedicate a property for a waqf, it must be under the absolute ownership of the *waqif*, in Islam, earning and owning a property relates to the human effort and work.

say, the enemy of Islam; and (4) *Sighah* - *ijab* and *qabul* of waqf (offer and acceptance)[23]. The waqf will be administered and managed by the *mutawalli*[24] (deemed as the manager of the waqf) appointed by the *waqif*. The Indian Waqf Act, 1995 defines *mutawalli* as "any persons appointed either verbally or under any deed or instrument by which a waqf has been created or any custom or who is a *naib-mutawalli*....or any other persons appointed by the *mutawalli* to perform duties of a *mutawalli*..." (Hasanuddin, 1998). The act (section 44) required every *mutawalli* to prepare an annual budget for the next financial year showing the estimated receipts and expenditures during that financial year and submit it to the Waqf Board for approval. Imtiaz (1988) asserts that it is the moral and religious duties of the *mutawalli* to manage, maintain and improve the waqf honestly and efficiently; otherwise they are liable for any misconduct in a court of law.

At the early stage of the developments of waqf regulations, the founder is allowed to designate himself and/or his family and descendants as the trustee and/or beneficiaries of his waqf. Only after the extinction of his line would the revenues be allocated to certain pious purposes (Hoexter, 1998; Cizakca, 1998; Kahf, 1999; Van Leeuwen, 1999). In Malaysia, the manager of the waqf is only rendered valid by the law[25] to be the SIRC of each state. The waqf property is not to be sold, transferred nor inherited because the *waqif* has relinquished his claim on the said waqf property[26].

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[23] See Zain, 1982; Syed Othman, 1986; Alabij, 1989; Nik Mohd Zain and Azimuddin, 1999.
[24] *Mutawalli* must have the following conditions (1) sound mind; (2) *baligh*; (3) *amanah*; and (4) has the ability to administer and manage the waqf property. All of these conditions must be fulfilled otherwise a new *mutawalli* has to be appointed to have a better supervision of the waqf property (Syed Othman, 1986).
[25] For example, the Federal Territories State Islamic Enactments, 1993.
[26] Once the property is surrendered to waqf, it will become perpetual, it remains so until the Day of Judgment, and no one can change it later on. The principle of perpetuity is protected in the *shari'ah* by a

2.3 Types of waqf[27]

According to Kahf (1998), there are three types of waqf. One is the pure religious waqf, for example, the property used for worship such as *Masjid* or *musalla*. Second is the philanthropic waqf i.e. a school or a hospital, and third, the family (*waqf fi ahli*) or posterity waqf (*waqf al awlad*). The third is argued as a pure Islamic invention, which started from the companions of the Prophet Muhammad (*s.a.w.*) and prospered during the reign of the second caliph, Umar Al Khattab (Kahf, 1999).

Syed Othman (1986) also divided the waqf into three categories. The first category is *waqf khayri* or general waqf (for public purposes). This waqf is dedicated to supporting the general good and welfare of the poor, the needy, public utilities such as schools, colleges for education, scientific research, shelter houses for orphans and wayfarers and hospitals which provide free services for the sick and poor. In other words, if the recipients of the benefits are the public, it will be classified as *waqf khayri* (general waqf) (Hassan, 1984; Baharuddin, 1998). The waqf deed does not specify specific recipients of the benefit of waqf and it would depend on the administrator of the waqf to distribute the usufructs. It serves the interest of the whole of society or the major part of it (Kahf, 1999).

This waqf is said to be in line with the spirit of *ibadah* where the *waqif* will receive the rewards for the good deeds even after he dies as Abu Huraira reported that the Holy

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series of rulings such as the prohibition of disposition of the waqf assets through sale and other contracts. Please refer to Kahf (1999) for further elaboration on the principle of perpetuity of waqf properties.

[27] Zain (1982) argues that Islamic law only recognizes two classes of waqf: public and private.

Prophet *(s.a.w.)* said "when a man dies, all his acts come to an end, but three; recurring charity (*sadaqah jarriyah)*, or knowledge (by which people benefit), or a pious offspring who prays for him". It is argued that the combination of recurring charity and *sadaqah jarriyah* constitute the essence of the Islamic waqf (Cizakca, 1998). Cizakca (1998) further says:

> "Muslims needed an institution that would enable them to perform all three of these good deeds. The institution was the waqf which can, indeed, assure ongoing, recurring charity for many years, even centuries, after the death of the founder; it can finance scholars whose lasting word would benefit mankind for a long period and the *sawabs* (good deeds) that would accrue to them would be shared by the waqf's founder who had provided for their sustenance in the first place; finally the management of the waqf can be entrusted to the offspring of the founder so that while, on the one hand careful and loyal management is assured, on the other, the offspring would pray for the deceased for, thanks to his waqf, he or she is not in destitute"(Cizakca, 1998 p.9)

This waqf may also be enjoyed by the majority of the public and also provides a strong basis for the socio economic condition of the *ummah* (Syed Othman, 1986). Yedyyildiz (1996), as quoted from ancient words of wisdom, encourages the practice of waqf by Muslims:

> "The good deeds (*sevab*) of a person who does the following do not stop and continue until his death: teaching knowledge, bringing water to settlements, digging a well, planting fruit trees, building a *Masjid*, leaving behind a copy of the *Qur'an,* and bringing up a child who prays to God for the forgiveness of his mother and father"

The second category is the *waqf fi ahli* (family waqf) or *waqf zurri* (*dhuriyyah*-offspring). Kahf (1999) terms it as private waqf. In India it is known as *waqf al awlad* (waqf for children; singular-*walad* or child). In other words, the beneficiaries are either a specific person or persons characterized by the founder or any other specific persons. This type of waqf is endowed initially upon oneself, one's children and one's relatives (Hassan, undated). It is legal in the *shari'ah* as its origin is from the Holy Prophet (*s.a.w.*) and his companions[28]. It means that majority of the usufruct (*manfaa'*) of the waqf assets is allocated to the owner, family or/and descendents (Hasanuddin, 1998). However, a certain amount is specifically dedicated from the usufruct for the public or for general use (Hassan, 1984). When the descendants of the *waqif* no longer exist, the waqf usufructs will be given to the distant relatives or will be converted to be *waqf khayri* by the authorities (Kahf, 1999).

Kahf (1999) further argues that this type of waqf serves an important social objective as the property left to posterity helps keep them off the social welfare and zakat recipient lists, while the property develops and grows through capital accumulation. He emphasized that in the West, especially in the United States, it is known as a family trust and these trusts receive several tax privileges. On the contrary, this type of waqf is banned in most Islamic countries like Egypt and Syria. Meanwhile, in Lebanon it is limited to two generations only and after that it will be liquidated (Kahf, 1999).

[28] Please refer to the *ahadith* on page 19.

The third category is *Waqf Mushtarak* (Combination), which is actually a combination of *waqf khayri* (general waqf) and *waqf zurri* (*waqf fi ahli/waqf al awlad*). Usually, under this type of waqf, the endower (*waqif*) will specify the target beneficiary (usually the descendants) and later assign the benefit for broader welfare purposes (Hassan, 1984). In this case, *waqf mushtarak* will take the legal conditions from the *waqf khayri* (general waqf) and *waqf zurri*. In Malaysia, only the *waqf khayri,* pure religious waqf (termed as *waqf khas*) and cash/share waqf is available. The existence of *waqf zurri (waqf fi ahli, waqf al awlad)* and *waqf mushtarak* is hardly traceable in Malaysia (Abdul Rahim et al., 1999).

The waqf discussed above are the more traditional types of waqf. However, they are two more types of waqf which are relatively new. They are *waqf istibdal* and cash waqf[29]. *Waqf istibdal* happens when there is an exchange of existing waqf assets with other assets (may be in another place) or due to certain reasons such as the waqf assets becoming unproductive or unprofitable. The property would be sold and the proceeds would be used to buy more profitable assets for the waqf. Though warranted, *istibdal* is sometimes misused in some cases (Deguilhem, 2003). *Istibdal* was commonly practiced by the waqf of *haramayn* in Algiers during the years 1700 until 1830 (Hoexter, 1998). It has the sanction from the Hanafi jurists; however, strict regulations are attached to it to avoid

[29] Cash waqf is a special type of endowment and it differs from the ordinary real estate waqf in that its original capital, *asl- al- mal* or *corpus* consisted, purely or partially, of cash. The earliest origins of the cash waqfs may be traced back to the eighth century.. Cash waqfs are also known in Europe where real estate foundation is originally in the form of endowment, but, eventually, it became possible to make endowment with movables. Unfortunately, there is a huge gap of knowledge concerning the history of cash waqf from the eighth century until the fifteenth (Cizakca, 1998). Also see Razali (2004).

misuse or embezzlement. However, the Shafie school of thought does not encourage *waqf istibdal*.

Meanwhile, cash waqf is usually formed as a financing method to develop waqf property or to support and build an educational institution (schools or universities) or orphanage houses. The waqf will receive cash instead of property or land and will use it for the financing instead of relying on banks or financial institutions (Sadeq, 2002). In Malaysia, the cash waqf is also known as share waqf (*waqf saham*). The cash endowments are pooled and the money is used for pious purposes such as helping the poor and needy and as educational aids. Two states' SIRCs (i.e. Pahang and Selangor) have this type of waqf. It was found that the financial reporting for cash waqf is better because it has a complete financial statement with a note on the amount spent for the various activities (source: the Pahang SIRC).

2.4 History and background of Waqf in Malaysia

The institution of waqf in Malaysia is believed to have been in existence for more than eight hundred years (Syed Othman, 1986). It is believed to have started when the Arab Muslim traders brought Islam to the land in the tenth century. The earliest record available is a stone tablet found in Terengganu dated from the early thirteenth century, which records the Islamic *shari'ah* presence in previously Tanah Melayu (Ahmad

Ibrahim, 2000; Mahmood, 2000[30]). Religious education is the main factor of waqf being developed in Tanah Melayu, especially in Terengganu. This is evidenced by one of the early nineteenth century waqf deeds by *Sultan* Umar; the ruler of the state, stating the object of his waqf is to promote education and the dissemination of knowledge to the public (Mahmood, 2000).

During the earlier period, Muslims who wished to waqf their property would go to see the village head or *Penghulu* and they would be the trustee of the waqf. Therefore, no records are made as it is only based on verbal transactions. Problems occurred when the *Penghulu* passed away and another person became the *Penghulu*; the descendants of the deceased sometimes did not declare the waqf property and used them as their private property (Baharuddin, 1998). However, there are no written documents regarding the first establishment of the waqf institution in Malaysia before the nineteenth century as stated above, except for the establishment of the waqf of *Masjid Capitan Kling* in Penang in 1801, followed by the waqf by a member of the Aceh royalty, also in Penang (Nasution, 2002).

As Malaysia is a federation, in the federal structure, matters of Islamic law are (except Federal Territories) placed in the State List. The Federal Constitution of Malaysia puts Islam as the religion of the federation (Item 3). The Ninth Schedule List II (State List) of the Federal Constitution states the powers of the State (Ahmad Ibrahim, 2000) except for the Federal Territories. In a state that has a Ruler (King), the Ruler is the head of the

[30] As quoted from Muhammad Salleh (1983), "*Terengganu dari bentuk sejarah hingga tahun 1918*"(Terengganu in historical perspective until 1918).

religion (Islam), while in the case of a state without a Ruler; the *Yang Di Pertuan Agong* is the head of the religion (Islam). In each state, an SIRC is formed to advise the Rulers on all Islamic matters and each state has enacted its own Islamic legislation. The state Islamic department will enforce all the legislation accordingly. Basically, different states will have a different set of legislations (Mustafa and Mat Saad, 1986; Ridzuan, 1994; and Ahmad Ibrahim, 2000).

As stipulated in the Malaysian Constitution [section 74 (2) and (3)], the religion of Islam has been identified as within the jurisdiction of the state (Abdul Rahim and Goddard, 1998). As mentioned above, in every state, the SIRC was established to administer all the Islamic religious matters. This includes *zakat* collection and disbursement, and waqf. However, the waqf institution has long been neglected and nearly forgotten by the Islamic community in Malaysia as compared to the other Islamic institutions (Baharuddin, 1998; Mahmood, 1998; Abdul Rahim et al., 1999).

In the case of waqf, the SIRC in each state is the sole trustee to manage all the waqf assets. However, under the law, the *waqif* or founder may specify in the foundation deed, the beneficiaries or the purpose of use, or the purpose for which the waqf is created. The SIRC is given the authority and accountability to manage the waqf properties in the interest of *waqif* as specified in the foundation deed.

Earlier on, the practice of waqf by Muslims in Tanah Melayu was not properly documented. Community leaders who were directly involved with the Islamic affairs

such as *Qadis*, *Imams* even the head of the village or area or a certain community's committee i.e. the *Masjid* Committee, are appointed to administer and manage waqf (Kamarudin, 1992). They acted as the trustee or the *mutawalli* until the enforcement of the Islamic enactment by the states. However, many problems arose because of the lack of documentation and lack of accountability of the people responsible (Baharuddin, 1998).

The earlier documents about the waqf practices could only be seen in "Waqf Prohibition Enactment 1911" where the state of Johor introduced written laws regarding this issue. This was followed by the State of Perak which introduced the "Control of Waqf Enactment, 1951". Other states started much later with their own waqf enactments (Baharuddin, 1998).

2.5 Legal issues pertaining to waqf

Originally, old provisions in the Malay legislations were influenced by the principles of Islamic *shari'ah* especially on the land law, and this is evident from the Malacca Sultanate in the fourteenth century. The Portuguese who conquered Malacca in 1511 did not touch the existing Islamic law of the Malays. The same went for the Dutch who colonized Malacca in 1641 and the British from 1795 until 1824 (Ridzuan, 1994).

Although the waqf is under the state jurisdiction, many of the waqf cases are in fact heard by the civil court, and tried based on civil law (common law in the United Kingdom).

The judicial structure in the Federal Constitution of Malaysia states that the civil court has higher authority than the *shari'ah* court. This creates many differences between the Islamic matters that should only be dealt with by the *shari'ah* court, being brought to the civil court and having judges incompetent in Islamic *shari'ah* because they are trained in common law (mostly in the United Kingdom) (Ahmad Ibrahim, 2000; Abdul Hamid, 2003). However, we cannot say much in this instance because the Federal Constitution is a secular constitution and though Article 3 (I) provides a clause saying that Islam is the religion of the Federation, it has mentioned nothing on the need to follow the Islamic *shari'ah* and principles in the motherland.

Even the first Prime Minister of Malaysia, Tunku Abdul Rahman had insisted that Malaysia was a secular state and his view has been accepted by many of its leaders (Ahmad Ibrahim, 2000). However, the Current Prime Minister Abdullah Badawi provided a rebuttal to Tunku Abdul Rahman's view by alleging that Malaysia is an Islamic state (Yousif, 2004). He further asserted in May 2005 that Malaysia is a moderate Islamic state, not an extremist or fundamentalist Islamic state. This basically resulted from the preparers of the constitution the majority of whom were non-Muslim (Ahmad Ibrahim, 2000). Furthermore, the current Malaysian land law is based on the English Torrens System in South Africa and Australia. Although not all provisions are adopted, many are in contravention of the Islamic principles of land law according to the Islamic *shari'ah* especially with regards to waqf land (Ridzuan, 1994). The above facts are taken into consideration as the third objective of this study is to put forward some recommendations for waqf accounting best practices and it may have some legal

implications such as the recognition of waqf lands as the waqf assets though the title of the land might not have been transferred yet to the SIRC.

The following three cases clearly demonstrate the superiority of the civil court over the *shari'ah* court. In Penang SIRC v Isa Abdul Rahman and *anor.*[31], the matter concerns a *Masjid*, which was built in 1889. The land on which it was built was made a waqf by the owner. The *Masjid* was later vested in the Penang SIRC as the trustee of all *Masjids* in the state. The SIRC proposes to demolish the *Masjid* and in its place erect a building to be used partly for commercial purposes. The respondents claim to have inherited the land from the original landowner and he brought an action for a declaration that the proposal of the SIRC to demolish the *Masjid* was contrary to the law and the *Hukum Syarak*; and an injunction was issued to prevent the SIRC from demolishing the *Masjid*.

The SIRC applied to set aside the writ of summons and the respondent's claim. The senior assistant registrar of the high court dismissed the application and an appeal to judge was also dismissed. The SIRC appealed to the Supreme Court. The Supreme Court dismissed the appeal and held that the *shari'ah* court had no jurisdiction to issue the injunction as applied by the respondents and it was clear, therefore, that the claim of the injunction could only be heard by the Civil High Court.

[31] (1992) 2 MLJ 244 (Ahmad Ibrahim, 2000). Also see Abdul Hamid (2003).

In G. Rethinasamy v Penang SIRC and another,[32] the plaintiff bought a piece of land next to a Masjid. A portion of the land had been occupied and used for the purposes of the Masjid and a burial ground for a long time. The plaintiff claimed the right of ownership over the whole land, and the defendant claimed that the portion of the land used for the purposes of the Masjid and for the burial ground had become a waqf. The High Court held that it has the jurisdiction to hear the case as one of the parties to the action was a non-Muslim and the question of the title of the land and the issue of estoppels came within the jurisdiction of the civil court. Although the matter concerns a waqf, which was within the jurisdiction of the *shari'ah* court, this did not preclude the civil court from deciding whether there was a valid waqf as Article 121 (1A) has no provision to state that the civil court cannot make a decision affecting the *Hukum Syarak*.

In Commisioner of Religious Affairs v. Tengku Mariam[33], the Federal Court held that the civil courts were not bound by the gazetted '*fatwa*' of the Mufti of Terengganu and followed Privy Council Judgments to hold that the waqf in question was void. Dissatisfaction with decisions of the civil courts arose similar to what happened much earlier in Penang.

It can be seen that the provision of the law in Malaysia did not truly separate the civil and the *shari'ah* jurisdiction. Thus, the civil courts using unIslamic principles differ from the *shari'ah* and are seen to be superior to the *shari'ah* courts. This is in contrast with countries such as Pakistan, where there is a clear juristic division resulting from a series

[32] (1993) 2 CLJ 605 (Ahmad Ibrahim, 2000). Also see Abdul Hamid (2003).
[33] (1970) 1 MLJ 220(1) (see Abdul Hamid, 2003)

of reforms resulting in the provision that all Islamic matters will be heard only by the *shari'ah* court, for example, on waqf and *zakat* matters.

2.6 Summary and conclusion

It can be said that the source of the *shari'ah* on waqf is the *ayat* of the *Qur'an* and the *ahadith* of the Prophet Muhammad (*s.a.w.*). Some of them are general and some are specific especially when categorizing the waqf as a *sadaqah* (Mohd Daud, 1999). The supplementary source is the *Ijtihad* in the form of *ijma'* and *qiyas* by the Islamic jurists. There are different types of waqf as discussed above; however, not all are practiced in Malaysia for example the *waqf fi ahli, waqf al awlad* or *mushtarak* although there is a clear jurisdiction in the Islamic *shari'ah* where the Holy Prophet (*s.a.w.*) himself instructed his fellow *sahabah* i.e. Umar, to form the said waqf.

Nevertheless, the clash between the secular legal system and the Islamic religion in the country's legislation is still in existence. Therefore, any changes in the federal constitution for the improvement of waqf law are not easy to achieve. However, this study would like to further argue that the law of the land should be improved so that it will be more compatible, if not fully, to the *shari'ah*. A review of the waqf literature is provided in the next chapter.

CHAPTER 3

WAQF IN OTHER COUNTRIES AND MALAYSIA

3.1 Introduction

As mentioned earlier, there is a dearth of literature on accounting in religious organizations especially waqf[34]. Islamic researchers have not extensively explored waqf, compared to other issues such as *zakat*. However, it is argued that waqf may be the possible economic solution to the problems faced by the contemporary Muslim *Ummah* i.e. in dealing with the cost of health, education and unemployment. It had, indeed, contributed a great deal to the role of the Muslim society's development in the past[35].

Most literature on waqf is theoretical and normative in nature, meaning that it comprises basically discussions on history, legislation and present waqf environments. Then, suggestions and recommendations are put forward in these papers on how to achieve a better state of waqf conditions with no one to appreciate it, but the readers of the articles who are usually academics and student researchers. This study hopes that the practice of merely discussing recommendations be put to a halt forever, as there are many things to be done that necessitate us not to just write, rather, to suggest practical recommendations which should be implemented by the relevant authorities and agencies.

[34] See Abdul-Rahman and Goddard (1998).
[35] See Zain (undated) and Van Leeuwen (1999).

Even in Malaysia, the literature available is mostly on the administrative and legislative aspects where statistical analyses are conducted on how many waqf assets are recorded and the suggested solutions for contemporary waqf problems. No study systematically reviewed the actual operations of the waqf in practice, except for a few, such as Hoexter (1998) who studied the accounting records of the *waqf al haramayn* in Algiers beginning from the early seventeenth century, and Siti Rokyah (2004) on waqf financial reporting practices by the SIRC in Malaysia.

After the general introduction on the waqf literature above, this chapter is structured into two sections as follows: Section 1 focuses on some of the waqf literature from other countries' waqf experiences while commenting on some of the issues; and Section 2 reviews some of the waqf studies in Malaysia, although not many of these are concerned with the accounting perspective. Hoexter (1998) and Siti Rokyah (2004) are reviewed first in each section because they are directly related to the waqf accounting practices. Finally, a summary and some conclusion end this chapter.

3.2 Other countries' waqf experience

The objective of this section is to review the waqf literature in other Muslim countries. This is important as most of the countries have a rich history of waqf, which dates back more than one thousand years. Whenever possible, attention will be given to their administration and management with a focus on the accounting aspects. However, it has

to be admitted that not much of the literature is in this special area of interest i.e. waqf accounting.

Hoexter (1998) is one of the most important studies on waqf records. She studied the history and evolution, growth, administration and managerial policies and also the function of the *Waqf al Haramayn*[36] in *Uthmaniah* Algiers (Algeria was under the *Uthmaniah Khilafah* until the French occupied the town in 1830). The study is based on the waqf records (among the pioneers in studying waqf from actual waqf records) that were available from the late 1700s until 1830, which is about 170 years[37]. The main findings of Hoexter (1998) include the income registers[38] that covered one, two, nine or eleven *hijri*[39] years. Among the sources of *waqf al haramayn* income were *waqf al qura'*[40] and *waqf al khayrat*[41].

Haramayn administrators[42] purchased assets or property from *bayt-al-mal* while testamentary gifts amounted to one third of deceased property. They also received money from wills and invested it in the purchase of assets. These acts provide the basis for the

[36] *Al-Haramayn* is associated with the two holy cities in Islam, Makkah and Madinah. The *Waqf al Haramayn* is actually property endowed for the benefit of the poor in those two cities after the beneficiaries in Algiers itself. It is the foundation's responsibility for the management and transfer to beneficiaries.
[37] Earliest trace of *waqf al Haramayn* is in the early 17th century. By the 18th century, it had already become a fully-fledged public foundation institution
[38] A detailed listing with its annual rental, the name of its lessee, a list of actual payments of rental, the kind of the lease information on exchange deals in which the assets are involved and sometimes details about the founder of the endowments.
[39] *Hijri* year is the based of Islamic calendar.
[40] This was rental income from assets in other Algerian cities administered by a representative of Algerian Haramayn. The rental incomes were periodically transferred to Algiers.
[41] It was charitable donations as '*sadaqat*' (voluntary alms assets) money from testaments and gifts.
[42] The administrators were appointed by the government either by creating special offices and indirect control of individuals with specific connection to the government, foundation's purpose or *ulama'* or qualified individuals or the ruler himself.

foundation's expansion later. They even produced a census to record all its assets and foundations supported by the waqf, known as the '*waqfiyya of Algiers*[43]', to ensure assets and funds were not misappropriated[44]. Hoexter (1998) further asserts that credibility, efficiency, good economic management of assets by the administration, direct and indirect encouragement by the governing authorities certainly influenced endowment pace, and peoples' choice of the charitable foundation as the ultimate depository of their endowment.

She also found that the preservation of the waqf assets (guarding them from dilapidation or usurpation) had secured continuous distribution of the waqf income. The founder designated repairs precedence over any other expenditure. Anything that could endanger the continuing presence of the assets as endowed property was ruled out i.e. selling, mortgage, letting for a permanent/long period were forbidden (only one year for urban and three years for rural). An exchange transaction, known as '*mua'wada*', or '*istibdal*'[45] is practiced in Algiers.

People are encouraged to endow (waqf) and were rewarded with money, which was charged against the first year rental income of the asset. Once the asset was registered into the record of *haramayn*, it also included the name of its tenants. Each change of lessee is

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[43] The '*waqfiyya of Algiers*' is designed to do away with mismanagement; negligence and embezzlement of waqf funds and properties to secure the arrival of endowed assets at the public foundation. The '*waqfiyya*' provide the administrators an efficient tool to trace the history of waqf assets.

[44] The waqf controlled a large amount of assets. So, this process was to ensure a prudent management of the waqf resources.

[45] Waqf administration relinquishing assets and receiving another in its stead or selling an endowed asset and using the money to purchase other assets. However, the latter is very seldom practiced.

carefully noted with the date of exchange, sums paid and yearly rent. When the tenant died, the son would pay out of the inheritance, if not the *bayt-al-mal* would. On occasion, arrears were paid by monthly installments. Tight follow up and efficient control of payments due by tenants and good work in maintaining and restoring of assets under their control are obvious. Reference to the registers shows the purchase of materials for maintenance, and the waqf administrator even kept stocks (inventory) for repair purposes.

Hoexter (1998) argues that the number of assets lost in public foundation is one of the crucial criteria for evaluating the efficiency of waqf administration but this has never been tested in research yet. Upon examining the five income registers of *haramayn*, only one hundred waqf assets disappeared (drop-outs). The actual number of drop-outs is smaller as the destruction of the asset was the main reason. The scribe added the words 'destroyed' or 'unproductive' next to each asset record. Most probably some of the assets were deemed worthless and simply abandoned. Considering the long period under review, the loss rate is modest.

This review has shown the importance of keeping proper records of the waqf assets and other transactions. We could see that after a few hundred years the data are still available for research. This enhances our understanding of the earlier waqf practices. Unfortunately, Hoexter (1998) is only a pure descriptive study with simple statistical analyses on the waqf assets and their development. Incomplete and damaged records led to some limitations in her research. In some circumstances, she used inferences on the matters discussed. Moreover, the lack of information during the later years of the *waqf al*

haramayn, may be due to the occupation by the French, which created a vacuum of information for that period.

Before the experience of other countries is discussed, a critical paper on waqf worth mentioning is Shatzmiller (2001). She argued that *waqf khayri* (public waqf) has been given too much scholarly focus but has yet to be examined in a theoretical framework, which would relate the institution to their economic performance. The basis of her arguments is that there is significant discrepancy between the reputation of the waqf as a successful economic institution and the actual historical record of its performance.

She raised two major concerns: 1) Although Europe was able to promote advancement in learning and knowledge through the setting up of institutions like Oxford using trust, she feared that waqf failed to produce such institutions, and 2) *Waqf khayri,* which is argued by Islamic historians, fosters social interaction and economic interaction, has fall short of its objectives as economically unwise decisions, such as charging abnormally low rent for waqf property, are implemented.

This study argues that the reputation of waqf as a successful socio-economic institution is undeniable. This is because waqf does not only consider the economic aspects; it also caters to the social needs of the Muslims. The best example is the Al Azhar University which has been in existence for more than 1000 years providing knowledge and employment opportunities for the *ummah.* It is agreed that some of the waqf property charges low rental but the objective is not to make profit in the first place, rather to

provide the Muslims opportunities to be involved in economic activities or to have a decent place to live.

Shatzmiller (2001) applied two sets of theoretical paradigm designs of (1) property rights; and (2) institutional arrangements, to measure institutional behavior. She was analyzing legal cases by *fatwa's* from the Maliki school of thought and acknowledged that it may differ in other regions. Her study concludes that the institutional history of *waqf khayri* is distinct from the family waqf and institutional behavior was mostly influenced by ideology. Furthermore, endowments for *waqf khayri* were more than just philanthropy, rather in many instances, political motivation appeared, since private and political interests were never far away (Shatzmiller, 2001). This study argues that Islam is not based on ideologies. Pious Muslims waqf their property to achieve the pleasure of Allah *(s.w.t.)* and the endowments must be made with a sincere thought, not to gain any personal benefits or advantages in this world.

In other countries' perspectives, there are several papers, which discussed situations in India (Haque, 2002; Khan, 2002; Khalid, 2002), Indonesia (Alabij, 1989), Pakistan, Bangladesh, Sri Lanka, Maldives and Myanmar (Khalid, 2002), Turkey (Eryilmaz, 2002), Egypt, Oman and the United States (Mohd Daud, 1999) and Nepal (Salar, 2002). Haque (2002) provides the experience of waqf in India. He asserts that under the Muslim rule in India, the waqf institutions had developed tremendously. However, the British eliminated the Islamic law of waqf because of the differences between the English Law of Trust and the original Islamic Waqf Law under the Islamic *shari'ah*. The judgment of the Privy

Council in the case of *Abdul Fatah Mohamad Isak vs. Russaymoi Dow Chowdary* snatched the power of the Muslims to establish *waqf al awlad* for the benefit of one's own family. Since then, there were a lot of legislation passed by the Central and State legislators to regulate waqf in India.

The Waqf Act 1995, passed by the Indian Parliament in November 1995, established new waqf boards for the seven State Governments and three Union Territories to ensure better administration and management of waqf. There is also the Central Waqf Council, an apex body to advise government on matters concerning Waqf Boards and the administration of waqf in the country. Unfortunately, Haque (2002) did not specifically deliberate on the legislation for the financial reporting that needs to be produced by the Waqf Board in relation to improving the management of the waqf.

Khan (2002) also provides a review of the Indian Waqf Act, 1995. He argues that the act was vehemently criticized and opposed in view of its inadequacies and shortcomings by Muslim leadership for not having been consulted by the government. The Waqf Bill 1993, which retains most of the provisions of the 1984 act, could not be enacted due to reasons such as corrupt employees who directly or indirectly encourage the encroachment of lands and buildings under the charge of various waqf boards. He further discusses the judicial exposition for the constitutionality of the act and the desirable distribution of powers and to check on any alienation of judicially approved abuses and misuse of waqf property with or without the involvement of the local *mutawallis*[46] and board officials.

[46] *Mutawallis* is the plural of *mutawalli*, the manager of the waqf, appointed by the *waqif*.

In Khalid (2002), a comparative study of waqf legislation in South Asia is presented. He used countries like India, Pakistan, Bangladesh, Sri Lanka, Maldives and Myanmar (which was a part of India until 1937). In India, the Waqf Act 1995 requires a *mutawalli* to prepare a budget and submit it to the Waqf Board for approval. Every *mutawalli* is required to keep regular accounts and must furnish to the Waqf Board a full and true financial statement in such forms with proper particulars and will be audited and examined accordingly. The auditor will report to the Waqf Board and shall specify all irregular cases, illegal or improper expenditure or failure to recover money or other property caused by neglect or misconduct and any other matter, which the auditor considers necessary to report.

In countries other than India, legislation on financial accounting and reporting was not given emphasis. In fact, in some countries, there were no specific provisions regarding the waqf financial matters i.e. Maldives and Myanmar. Khalid's (2002) analysis shows a marked preference for legislating and federal law to govern waqf. In India, the Waqf Act 1954 detached with local waqf legislation except for only Jammu and Kashmir under state waqf law. In Bangladesh, the Waqf Ordinance 1962 applies to the whole country and in Sri Lanka and Myanmar federal law governed waqf. In Maldives, there is no direct law but two sundry laws, also governed at the federal level. In Pakistan, the waqf legislation is at the provincial level. In Bangladesh, Sri Lanka, Myanmar and Maldives, states or local regions enjoyed autonomy in matters of waqf.

Eryilmaz (2002) provides an overview of waqf in Turkey. Waqf history is very old (over 900 years) and waqf reached its peak during the *Uthmaniah Khilafah*. However, the oppression of the secular Turkish government is threatening waqf's survival and legality. The ruling elite confiscated a great deal of waqf property for their own benefit. They forced the *mutawalli* or beneficiaries to purchase the waqf property or it would be auctioned. The sales proceeds would then go to the government. Cash waqf was abolished and the money was used to form a waqf bank in 1954 (Cizakca, as cited in Mohd Daud, 1999). However, Eryilmaz (2002) does not provide details of current legislation on waqf financial reporting and accounting, how reforms are introduced (Turkey is a secular state) and what challenges are being faced by waqf in Turkey.

A paper by Mohd Daud (1999) discussed briefly the waqf institution in Egypt, Oman and the United States. A ministry is responsible for the administration of waqf in Egypt because of alleged corruption by waqf trustees or *mutawalli*. A separate body was formed in 1971 to manage and develop public waqf and all revenues are given to the *Awqaf* Ministry for charitable allocation. In Oman, there is also a Ministry of Justice, Waqf and Religious Affairs, which has been responsible for the waqf since 1982. In Oman, they have waqf just for everything from Masjid, schools, graveyard, waqf for poor people; toilets especially for women, waqf *iftar*[47] and waqf for defense (see Benthall, 2002, p.152). There is a slightly different scenario for the United States, where foundation members manage the waqf property. The trustees are elected from the

[47] The breaking of fast in the holy month of *Ramadhan*.

Muslim community living in the United States. These foundations are very active in developing the waqf property and sponsoring charitable causes.

Salar's (2002) study argues that the situation of waqf in Nepal is in an adverse condition. Nepal is a country of many civilizations and different ethnic composition. Its constitution clearly states that Nepal is a Hindu state. Muslims are the second biggest minority, however, they are unevenly spread all over the country. This proves to be geographically disadvantageous for them. No data is available regarding awqaf, their number, valuation, income, etc. The poor socio-economic status of Muslims in Nepal has had an adverse effect on their religious institution. Waqf in Nepal suffers from insufficient financing of their educational activities and religious institutions. There is neither any formal administrative set-up to manage the awqaf and to prevent their misuse nor schemes to develop waqf property to enhance their income (Salar, 2002).

Meanwhile, in Indonesia, the waqf is managed by non-governmental organizations. Alabij (1989) describes the theory and practices in the waqf institution in Indonesia. He found that some legal issues in maintaining and getting the title of the waqf assets, especially land, from the Indonesian government as the main factor in waqf problems. He also provides some of the current Indonesian legislation, which is incompatible with the waqf *shari'ah.* One of the waqf institution managers in Indonesia, 'Persyarikatan Muhammadiyah' (*Mutawalli* for the waqf assets) is used as the sample analyzed for his case study.

3.3 Malaysian waqf experience

In Malaysia, although not many studies focused on the actual waqf environment, particularly on its financial accounting and reporting, Siti Rokyah's (2004) study is the exception. She focuses on the financial reporting aspects of the SIRCs, which maintain the waqf accounts. Siti Rokyah (2004) studied the current financial reporting practices of waqf as practiced by the SIRC in Malaysia. Her objectives were, 1) to examine the current status of financial reports; 2) to determine the level of waqf disclosures; 3) to examine financial procedures adopted by the SIRC; and 4) to examine the relationship between the financial procedures adopted in maintaining waqf financial reporting and waqf accounting practices.

The research methods utilized were a mailed questionnaire and secondary data gathered from the audited SIRCs annual reports. The study population is fourteen SIRCs. Ten samples are chosen from each of the fourteen SIRCs using the proportionate stratified sampling and a total of one hundred and forty samples were acquired. The samples contained personnel of the SIRCs who were involved with the waqf financial management and administration. Descriptive statistics, reliability tests and cross tabulation chi-square tests were conducted.

Among the findings there were three main groups; (1) the latest and up-to-date annual reports, where the SIRCs took one to three years to complete the annual report; (2) overdue reports where three to five years are taken; and (3) outdated or long overdue

reports where more than five years are taken to complete an annual report. Six out of the thirteen SIRC fell within the latest group or category, three out of the thirteen were in the overdue group and four out of the thirteen are in the outdated group. This finding was very important because the SIRCs have their own accounting deadlines and instructions from the Accountant General and Auditor General. More than half of the SIRCs were just ignoring the policies and regulations without being penalized. This may be one of the reasons why the SIRCs were not doing their financial reporting accordingly apart from citing the administrative and managerial problems.

There are also differences in the level of disclosures. For the latest annual report group, the study's findings indicate a high level of disclosure. The overdue or outdated group of annual reports also shows a high level of disclosure that relates to the qualification of the staff in thosc SIRCs. Generally, the SIRCs which show a high level of disclosure, have qualified accounting personnel to handle the annual reports as compared to the SIRCs with lower disclosure levels.

On the other hand, the accounting guidelines and procedures that had influenced the respondents were found (according to ranking) to be, 1) the State Islamic Enactment with modification (SIEM); 2) Waqf Financial Written Procedures (WFP); 3) Other Procedures (OP); 4) Treasury Instructions (TI); and 5) Circular Instruction (CI). The majority of the

respondents were also unaware that their organization did not maintain a separate waqf account i.e. general waqf account and specific waqf account[48].

Another finding was that the majority of the SIRCs did not maintain a separate fixed assets register for the waqf account. However, they claimed that the fixed assets register was updated monthly. Interestingly, this finding contradicted the finding in the study of Abdul-Rahim et al., (1999) where they found that the Federal Territory SIRC did not update their fixed assets registers accordingly. One possible explanation was that the Federal Territory SIRC had improved on their accounting functions. The majority of the SIRCs did not have proper treatment of their financial investments, as there are no records at all on the following: types of investment, market value report, name of the company where the investment is made, and information on the year that they had invested.

The majority of the SIRCs also did not make any allowance for depreciation on their fixed assets. Her study concluded that the SIRCs did not maintain proper waqf accounts especially their assets accounts. There were no separate accounts maintained for the specific and general waqf, no allowance for depreciation and inadequate disclosures of the financial investments.

[48] The waqf accounts are combined with the SIRC accounts under the General Resources Account (Abdul Rahim et al., 1999). The waqf assets are also included in the SIRC common assets register, under the waqf assets heading.

This study is different from Siti Rokyah's (2004) in a few areas. Firstly, this is an exploratory, descriptive and cross-sectional case study, which relies more on qualitative approach. Therefore, an actual visit is made to the research site to collect data, whereas Siti Rokyah distributed questionnaires. Furthermore, this study focused more on the waqf administration and management with special focus on waqf accounting, whereas Siti Rokyah (2004) focused on financial reporting practices. This study also looked into the waqf assets management and investment while comparing the recommended practices on charity by the SORP 2005.

An empirical study and a detailed history of the earlier waqf in Penang, Malaysia were recorded in Nasution (2002). She studied the effect of colonial intervention (with all the new law on Muslim waqf according to the British Trust or Charity Law, 1853) and subsequently the transformation of the waqf settlement in urban Penang, when the Endowments Board was established by the British administration in 1905 to take over the administration of waqf from its *mutawalli*. She provides detailed chronological events of waqf in Penang from early 1800 until late 1930.

Nasution (2002) concludes that the act of interfering with the waqf administration is one of the earliest major efforts by the colonial government in Penang to intervene in the religious affairs of its Muslim subjects. The Endowments Board had undermined the Muslims in many ways such as favoring pro-British Muslims in dispensing job opportunities and was perceived as the provider of Arabic schools and public services, but the money was taken from the waqf usufruct. Any objects of the waqf that did not agree

with the English Law were declared null and void in the colonial court. Nasution (2002) argued that the effects have lasted until today.

Worst of all, the poor and destitute (waqf beneficiaries) were often ignored by the Endowments Board. It seemed that the Endowments Board prefers to accumulate the waqf funds, instead of appropriating them to the rightful beneficiaries especially the descendants of the *waqif*. The surplus funds were channeled to certain approved charities.

The *mala fide* of the colonial British was clear enough though they alleged bad waqf management as the main reason for the Endowment Board to take over the waqf property. However, the truth was that the waqf land was very valuable at that time as it was located in the town area; for example, the *Masjid Capitan Kling* was valued at $250,000.00 in 1890. Another reason cited by Nasution (2002) was that the waqf settlement was not developed and the British wanted to improve the municipalities.

According to Nik Mustapha's (1999) paper, waqf is an institution and mechanism that plays a great role in the socio-economic stability of the Muslim *Ummah*. In Islam, the economic advancement must be supported and participated in by each of the member of society. Through waqf, the spirit of sacrifice and cooperation is generated. Allah *(s.w.t)* says in the *Qur'an* "*...and in their wealth and possessions (is) the right of the needy who asked and, him who asked, and him who (for some reason) was prevented (from*

asking)"[49]. Indeed, the establishment of waqf as the socio-economic welfare system will help to eradicate poverty from human society especially the Muslim *Ummah*. The *ayat* above stresses the sharing of wealth between the 'haves' and the 'have nots' to reduce the rift that could create social problems (Qasmi, 1999).

He further suggests that steps need to be taken to improve the waqf institution in Malaysia; (1) The SIRC must appoint one specific department to plan, manage and administer the waqf assets; (2) A chief executive is appointed to manage the waqf department from among professionals who have the qualifications and experience to develop the waqf assets. Also, every waqf department must have competent personnel; (3) A waqf advisory committee is set up to advise and monitor the development of waqf assets; (4) A waqf databank for easier reference and performance analyses which enables the assessment of each waqf asset and waqf manager's economic performance is set up; (5) Waqf annual reports should be prepared and reported. The printing of the annual report for stakeholders is necessary for them to evaluate each waqf; and (6) At the national level, a consortium of Islamic owned organizations like Tabung Haji and Permodalan Nasional Berhad to provide capital for the development of waqf assets.

The objective of waqf was also discussed in Mahmood (1999). He did touch on waqf administration and management in the Federal Territory SIRC. He also argues the development of waqf land especially in Kelantan, which was backward compared to other states. Meanwhile, Zainal Abidin (1999) presented a management perspective of waqf

[49] Adz Dzariyat: 19.

also in the Federal Territory, asserting that the Federal Territory was the example state in Islamic administration modernization. He was the Secretary of the SIRC and gave a good insight into the waqf administration and management while providing a detailed analysis of the waqf property in the Federal Territory. Although it was an extensive qualitative paper, there is no explanation on the management of waqf financial reports and accounts in his paper.

In addition, Mohd Yusop (1999) who conducts a case study on waqf in Perak, but then did not review the financial and accounting aspect of the SIRC either. He analyzed the waqf lands rate of rentals, the incomes and its potential for development. He also explains the state enactments[50] and puts forward some issues on waqf. He stated that the activities that the SIRC are involved in would include trading and industrial activities, whether privately or jointly with other entities. The SIRC sometimes incorporate a specific institution for that matter[51]. The Perak state government gazetted the Waqf Control Procedures in 1959 as a guideline to record all waqf assets under the Perak SIRC administration. It covers the registration of waqf, trustees, General Waqf Control Committee, Regional Waqf Control Committee and waqf meetings. The 1959 Waqf Control Procedures is a complete guideline; however, it is under revision to improve any weaknesses in current conditions.

[50] Under the State Islamic Enactment 1992, Section 74, Perak SIRC is the sole trustee for waqf assets and, therefore, it is the responsibility of Perak SIRC to develop and administer the waqf assets. In Chapter 11, Para 7(1) and (2), page 18 of the same enactment, Perak SIRC has the authority and power to develop the waqf assets according to the *shari'ah*.

[51] Quoted from the Perak State Islamic Enactment, 1992, Attachment A.

Some of the problems that the Perak SIRC encountered were the lack of competent managers and technical personnel. It is rather interesting to note that the contract personnel outnumbered the permanent staff by 60.9%. This has greatly contributed to the ineffectiveness and inefficiency of the Perak SIRC. The inexperienced committee members who have been handling the *Masjid* waqf assets added more confusion to the situation.

Furthermore, the waqf land record is incomplete and many of the assets are in small lot sizes and not easily traceable. Lack of funds for financing development is a common factor among the SIRCs and Perak is one of them. Lastly, according to the Waqf Control Procedures 1959, a Waqf Land Development Committee needs to be appointed, to manage and control the development of all waqf land. Unfortunately, until today no such committee has been formed.

Mohd Yusop (1999) further asserts that a campaign is needed to enhance public awareness of waqf. Also, proper planning for the development of waqf land is needed. The waqf land registers must be updated to facilitate the improvement activities. The Perak SIRC needs more permanent staff as compared to contract staff to smoothen its operations. Training should be conducted for the waqf committee members to increase their understanding of waqf management and administration. Finally, he suggests the use of the Geographical Information System (GIS) to get a more accurate position of all waqf land.

Mohd Yusop's (1999) findings seem to be in agreement with a much earlier study conducted by Mustafa and Mat Saad (1986). They looked at the problems faced by the Perak SIRC in developing the waqf assets and some of the administrative issues. It is amazing that after thirteen years, the SIRC still faced very much the same problems. They found that some of the weaknesses are due to the unclear objectives and functions of the waqf division (which has only three lower ranking officers). This creates incompatibility between the organization structure and the functions[52] such as these officers were not able to make the final decision on some important waqf matters. Lack of qualified officers is due to the lower job status offered and strategic planning (short and long-term) is also lacking. These findings support Zietlow's (1989) study on pure religious nonprofit organizations in the United States, where only five percent of the agencies have five-year financial planning (long-term planning). No evaluation is done on activities and programmes and this results in ineffective and inefficient execution of waqf tasks. Furthermore, the lack of funds for waqf assets development or even to purchase office equipment, worsens the situation.

Baharuddin (1998) is another empirical study. His study mainly concentrates on the administration and management of waqf in Peninsular Malaysia. He also touches on some issues in the financial management of waqf property by giving data on the income and expenditure of waqf in Peninsular Malaysia SIRCs for the five-year period, 1985 until 1990. Two states recorded no data; one state was break-even; five states had surplus waqf income, and two states suffered huge deficits. One of the two states that had deficits

[52] See Nik Mohd Zain and Azimuddin (1999) for further elaboration.

was the Federal Territory SIRC. He further acknowledged that there were three aspects of contemporary waqf issues, (1) the legislative and judicial system; (2) administrative problems; and (3) financial problems.

Mustafa and Mat Saad (1986) argue that legislation is also one of the problems. Before 1965, there was no rule or legislation requirement enabling the Perak SIRC to become the sole trustee for waqf property. As a result, a great deal of waqf property became inheritance to *waqif* descendants (Kamarudin, 1992). However, later on some of the sections in the waqf laws were amended to be the sole trustee for all waqf property in the state of Perak. For example, Section 93 (2) of the State Islamic Enactment No. 11, 1965, "SIRC is to be the sole trustee for all waqf property irrespective of its nature and Section 172 reads, legal action may be taken against those who refused to hand over waqf properties to the SIRC".

3.4 Summary and conclusion

It is evident that the waqf has been developed for over one thousand four hundred years and has spread throughout the Islamic world and civilizations; however, there is a dearth of literature on records and history of waqf in Malaysia, as seen in the review above. Some of the available literature on waqf was not able to provide us with a clear picture of the situation in the early history in Malaysia. Contemporary issues (legal and administrative issues) that arise from the differences in *shari'ah* and civil law still need to be resolved. This study argues that the lack of proper recording and accounting for waqf

has hindered proper waqf management. This conclusion is drawn based on the fact that, as opposed to the *waqf al haramayn* in Algeria (Hoexter, 1998), waqf in Malaysia was an oral agreement at the infant stage and gradually recorded after the 1950s.

The legislator should take into account the other countries' waqf experience to develop more comprehensive guidelines and procedures to improve the current Malaysian SIRCs' waqf administration, management and operations. Laws need to be revised to conform to the *shari'ah* as and when it is needed, for example, in India, although the earlier legislation seems to be not in favor of the *shari'ah*, in the later years they managed to change the law in accordance with the *shari'ah*.

The waqf legislation and practices in Malaysia need to be harmonized to enable a more effective and efficient supervision and management of the waqf property. The formation of the Department of Wakaf, Zakat and Haji (JWZH) in the year 2004, at the federal government level has shown the initiative of the government to rightly regulate and coordinate the waqf administration.

Kamarudin (1992) suggests that centralized administration will enable the authorized body to acquire financial and good human resources to further develop all the waqf property. The SIRCs should be given the opportunity to evaluate the current practices and do the required analyses to identify weaknesses. Then, it can be further improved.

It is safe to conclude that the main problem of maintaining proper waqf assets is said to originate from the lack of record keeping, especially with the SIRCs claiming that they have limited resources i.e. not enough manpower, legislative issues and lack of financial resources (Syed Othman, 1986; Mustafa, 1987; Kamarudin, 1992; Baharuddin, 1998; Abdul Rahim et al., 1999; Nik Mohd Zain and Azimuddin, 1999; Siti Rokyah, 2004). The majority of accounting staff in the SIRCs do not possess sufficient knowledge and lack training in accounting matters (Siti Rokyah, 2004).

Furthermore, mistakes in recording the financial transactions in religious institutions are not being corrected immediately (Abdul Rahim and Goddard, 1998). Lack of information technology systems also contributes to the improper practices (Abdul Rahim et al., 1999). It is argued that an audit should have identified these problems and made appropriate recommendations to remedy the situation. Razali (2004) asserts that the waqf problems resulted from neglect by general Muslims and, interference and influence by past colonial rule: where implementations of secular values in legislative enactment[53] had changed the practices of Islamic institutions.

To date, there has been no case study done on the SIRC in Malaysia on waqf financial management and accounting. Siti Rokyah (2004) only used questionnaires in her study and focused more on the waqf financial reporting practices. Other studies are mostly on legislation and management of waqf. So, this study contributes to further understanding

[53] The earliest recorded intervention is in a case of Fatimah vs. Logan (1871), where the colonial judge ignored the waqf 'perpetuity' and declared that the gifts for '*kenduri*' were not charitable and void (Nasution, 2002, p.303).

waqf financial management, especially waqf accounting as practiced by the Federal Territory SIRC. The practices are also compared to the SORP of the Charity Commission and wherever possible to provide some suggestions and recommendations to improve the waqf administration and accounting by the Federal Territory SIRC. Please refer to the Appendix I for the summary of the waqf literature review. The Islamic accounting theoretical framework and a review of the SORP 2005 is provided in the next chapter.

CHAPTER 4

ISLAMIC ACCOUNTING THEORETICAL FRAMEWORK AND A REVIEW OF SORP 2005

4.1 Introduction

Section 4.2 provides a brief review of the background and issues in the Islamic accounting theoretical framework. The issues will be linked to the concept of accountability in the Islamic perspective where it provides the ground for this study to propose the accounting framework for waqf best practices. Section 4.3 provides a review of SORP 2005 by the Charity Commission of the United Kingdom. This chapter ends with a summary and conclusion in Section 4.4.

4.2 Waqf accounting theoretical framework and issues

Baharuddin (1998) and Abdul Rahim et al., (1999) present the basis for the issues under discussion although they do not present specific issues in the setting of accounting standards for waqf. Both acknowledged that there is an impending need for one standard for accounting on waqf that is vital for its improvement in terms of operational and financial accountability[54]. This study further highlights on the needs of Islamic accounting by bringing into the discussion some of the issues in the theoretical Islamic

[54] See Siti Alawiyah's (2004) study on "The financial management practices of state mosques in Peninsular Malaysia".

accounting framework (see also Shahul, 2000). This is, indeed, important when we put forward our suggestions and recommendations for the waqf accounting best practices later.

It is known from the earlier research that the present management and administration of waqf, especially in Malaysia, is not in order due to several reasons such as the lack of accounting procedures for waqf and incomplete databases (Abdul Rahim et al., 1999). Many of the important issues like the recognition, measurement and valuation of waqf assets, the reporting of the waqf transactions and transparency are still in the development process. The lack of monitoring and control, in addition to an absence of proper accounting standards, contribute to this negative scenario. The accountability and responsibility of the waqf managers and also the accounting practioners and standard setting bodics are needed to ensure proper system are in place. The accounting standard will promote accountability and transparency among the SIRCs' waqf, which later may be used to determine and measure the performance of each waqf.

It is also sad to mention that while many of the Islamic countries, especially those of the Organization of Islamic Conference (OIC), follow the Islamic code closely in many areas of life, they continue to adopt the essential features of the Westem accounting practices. This shows that Muslim thought and perceptions are still being dominated by Westem secularism, separating the sacred and the profane. This is a result of the past colonization and Western secular education (Syed Othman, 1986). Malaysia, for instance, had been

colonized by a few Westem imperialists, namely, the Portuguese, Dutch and British from 1511 until 1957.

In view of this, Baydoun and Willet (2000) developed a theory about the form and the content of the financial information that should be contained in Islamic financial statements. They further argue that a balance sheet should be a comprehensive statement of historical values and current values[55] and a Value Added Statement (VAS) should replace the Income Statement with the Income Statement being relegated to the notes to the accounts. This will enhance the informativeness of the financial reports. This study argues that current value balance sheet may be valuable for waqf accounting; the VAS is more suited to the profit-oriented Islamic firm. However, waqf is a non-profit institution.

They have a good point in disclosing the historical and current costs. On the accounting for waqf, it will increase the informativeness of the waqf financial reporting. However, the additional costs must be taken into account as to whether its benefits out weigh the costs. For waqf investments assets, it may be suitable to include the current market value as it directly affects the value of waqf investments in decision-making purposes, for example, to analyze the efficiency of earnings generated.

[55] Agreed by Mirza and Baydoun (2000) who suggest the use of historical cost with periodic revaluations based on current market price.

4.2.1 Recognition of assets and income issues

Recognition is the process of incorporating items into the financial statements. The main objective of a financial statement is to provide useful information for decision making to investors and creditors (conventional accounting). Relevance and reliability is the main criteria for deciding on the recognition of an item. According to AAOIFI (1997), relevance means the existence of a close relationship between financial accounting information and the purposes for which this information is prepared. To be useful, financial accounting information should be relevant to one or more decisions of the users of that information. So, the information is capable of making a difference in user decisions. AAOIFI (1997) further elaborates that reliability is the characteristic, which permits users to depend upon information with confidence; however, this does not mean absolute accuracy since accounting information by necessity reflects estimates and judgments. In order to fulfill reliability, the information should be representationally faithful, objective, verifiable and neutral, that is free from any bias[56]. A problem arises as to what economic events should be considered to value an asset, for example, choosing the past transactions (historical costs) or current transactions which lead to market valuation (Liang, 2001).

For the waqf accounts, many assets especially the assets that are built for worship, i.e. a *Masjid*, are not recognized as fixed assets though they involve a huge amount of money to

[56] However, items that do not meet the appropriate level of reliability are not recognized in the financial statement but may still be considered for disclosure in the notes to the accounts or the footnotes (Sloan, 1999).

build. Much of the land on which the *Masjid* is built is waqf land. Presently, a *Masjid* is not recognized in the waqf account of the SIRCs in Malaysia unlike the recognition of churches and dioceses in the United Kingdom, where they are categorized under tangible fixed assets (*functional assets*). In Malaysia, only if they are old enough, they may be put under the *heritage assets* category. However, in the event that the related costs are difficult or impossible to trace, then the recognition is waived. Nevertheless, it will still be put into the notes to the accounts complete with an explanation to enhance public accountability. SORP 2005 requires that a functional asset be recorded and depreciated accordingly, where applicable.

For the purpose of this study, the recognition of waqf assets, liabilities, revenues and expenditure is the first issue to be considered. It is hoped that this study would provide some avenue as the solution, which will be evaluated through the input from the documents analyses, interviews and observations in the Federal Territory SIRC. As argued in Shahul (2000), the basis for Islamic accounting is in its dual accountability as compared to the accountability in conventional western accounting. This is because Islam does not separate religion from economic activities (Syafei et al., 2004), whereas conventional Western thought does.

The first objective of Islamic accounting is to benefit the Muslim *Ummah* as a whole in terms of socio-economics as mentioned in the five *maqasid* of the *shari'ah*. The *shari'ah* is the guideline that must be adhered to. Whereas in the Western conventional accounting, accounting is ultimately the tool for the capitalists to report their activities, which are

profit oriented, to their shareholders and creditors. Thus, ignoring other stakeholders' relationship, for example, the environment and the interests of society (Tomkins and Karim, 1987).

Therefore, in the consideration of accounting for waqf, the objectives and procedures must adhere stringently to the *shari'ah* and uphold the objective of the *shari'ah* to achieve *falah* in this world and in the hereafter. Waqf accounts should be able to serve the various stakeholders and provide a true and fair view of the reporting of waqf affairs. Hence, it is argued that the non-profit bearing assets (*functional assets*) such as *Masjid* and *Musalla* should be recognized in the waqf accounts. It will better portray the fair value of the waqf assets. So, as what has been practiced by the conventional accounting standard body, a proposal and exposure draft must be tabled and discussed among the stakeholders to ensure the successful implementation and acceptance of any accounting standard by the practioners and society. This study will try to look into this problem and possibly point towards some solutions.

4.2.2 Measurement and valuation issues

The next issue is on valuation and measurement, the methods and unit of measure for which need to be determined. Measurement in accounting is the process of assigning meaningful quantitative monetary amounts to objects or events related to a business entity and obtained in such a way that they are suitable for aggregation (such as the total

valuation of assets) or desegregation as required for a specific situation and they are always in monetary terms.

Conventional accounting uses a few methods for the valuation of assets and income, namely, the output value, input value or current equivalent value. An asset's value will depend on its ability to generate future cash flows by using three factors, (1) the amount of net cash flows; (2) number of years remaining; and (3) appropriate discount factor. Thus, there is a choice in the selection of methods. However, the question is which method complies with the Islamic *shari'ah*? Meanwhile, AAOIFI (1997) recommends that the measurements' attributes should be guided by the relevance, reliability, understandability and comparability of the information to be provided to the users (Abdul Rahim, undated).

On the issue of measurement and valuation in Islamic accounting, many studies agree that current value (as in *zakat*) is the most appropriate measurement and valuation tool. There are many verses in the *Qur'an* that imply that the valuation of assets must be made with full justice and equity, which means that the assets or liabilities must be measured according to their present value not their historical value. This enables the assets or liabilities to be computed accurately (not to undervalue or overvalue them) (see Askary and Clark, 1997; Shahul and Yaya, 2001; Syafei et al., 2004; Abdul Rahim, 2004). Although waqf do not pay *zakat*, the principle issue here is more on the accountability and transparency of the waqf managers.

In relation to the waqf accounts, their assets must also be measured accordingly, which means to say the assets should be measured just like the measurement of *zakat* assets. This will enable the fair value to be adopted and the waqf property is valued with full justice and equity by reporting its current worth. However, revaluation for all waqf property should not be done every year (especially for the *functional fixed assets*), as this will involve additional cost and waqf is not a profit-oriented entity. Of course, it can be argued that *zakat* is directly mentioned in the *Qur'an* and waqf is not, but the real issue here is the fundamentals of Islamic accounting, the basis of the measurement and valuation must be uniform and subsequently make the practice desirable to the related parties who are the preparers of the accounts. As one of the objectives of this study is to examine the accounting policies on the treatment of waqf assets by the Federal Territory SIRC, the measurement and valuation issues play a crucial role in the development of the set of waqf accounting best practices later.

4.2.3 Issues of disclosure

The final issue in this study is the disclosure of the waqf accounts, basically to answer the question of what is to be disclosed. Is financial information enough, or should non-financial information be included to make the waqf accounts more informative in order to satisfy various stakeholders? The methods of investment appraisal of waqf assets, for instance, are important to be disclosed. The public or interested parties can evaluate or question the effectiveness and efficiency of the SIRCs' economic decision-making process.

Baydoun and Willet (1997) promote four objectives of accounting disclosure for an Islamic firm, that is, to avoid *riba*, to pay *zakat*, to be socially accountable and to provide full disclosure (Abdul Rahim, undated). Full disclosure does not mean that everything must be disclosed. As long as the information is deemed relevant and reliable and if there is a need to disclose, for example, activities or income from non-*halal* sources, it should be disclosed together with the method of disposing of it. This enables the stakeholders to be aware of the activities in the business entity, which contravene the Islamic *shari'ah*. Sometimes it is unavoidable especially in Malaysia where the country practices a dual banking system.

As a matter of fact, *taklif* or accountability is one of the very important concepts in Islam. Islamic scholars and jurists have from time to time stressed the importance of this concept for Muslims to apply. It may be one of the antidotes to bring about the betterment of the Muslim *Ummah* as the *Islam Hadhari* in Malaysia has pronounced. Abdalati (1994), as cited in Siti Alawiyah (2004), states that accountability is a key Islamic concept that relates to the concept of *khilafah*, where human beings are entrusted as agents of Allah *(s.w.t.)* to take care of the God's resources within the prescribed *shari'ah* guidelines so that they will not astray.

According to Abdul Rahim et al., (1999), *taklif* means everyone is accountable for his actions and inactions on the Day of Judgment. Shahul (2000), in addition, mentions that the concept of accountability prefers society over self. Hence, he argues that the main function of accounting is to provide the information that the management has performed

their fiduciary duties according to the *shari'ah* principles, and in line with Islamic objectives and values (Syafei et al., 2004).

4.2.4 Historical cost versus Current cost

Accounting in an Islamic environment should be good for all interested parties or the stakeholders unlike the conventional accounting that focuses on a select few only. Many Islamic scholars are in agreement that the current costs accounting (CCA) is the nearest to the fulfillment of Islamic needs where the assets of the business are valued or evaluated according to the cash or the generalized purchasing power that could be obtained by selling each asset under conditions of orderly liquidation. So, the quoted market price for goods of a similar kind and condition is used in the balance sheet, as past prices (historical costs) are not relevant for future action (Akram Khan, 1994a). To date, waqf accounting still used the historical cost to record the waqf assets in Malaysia. In fact, this is being practiced in most Muslim countries.

Therefore, current costs accounting (CCA) will reflect the real-time value in the accounts on the balance sheet date. It is argued that CCA will minimize the subjective judgments about the future (Chambers, 1966 as cited in Mirza and Baydoun, 2000) as in other types of measurement in the valuation of the assets[57]. So, the focus is now shifted towards the

[57] Depreciation costs are forgone in current cost accounting as it is not an actual cost, rather an allocation of the whole amount of capital expenditures which may be subject to management discretion, rather, current equivalent value promotes fairness and justice because it reflects the most reliable value, as the value of the assets are definitely increased or decreased according to time and must be accounted for to give the true state of wealth (see Mirza and Baydoun, 2000).

perspective of wealth (more suited to waqf) rather than the profit or loss viewpoint of the business. This measurement is also in line with the measurement of assets for *zakat* purposes and it dispenses with the need for any inflation accounting as it has already incorporated inflation into the current price.

Determination of profit is made simple and objective where profit is derived from the differences between assets and liabilities. The adoption of current costs accounting (CCA) will forgo the accounting concepts of going concern and conservatism as used in the historical cost accounting. It will subsequently promote a true and fair accounting that is more desirable in an Islamic accounting environment as argued by Baydoun and Willet, (1997).

From the conventional accounting point of view, historical cost is said to be very objective and reliable because the exact amount of costs incurred for each asset is used (Liang, 2001). Whereas, current cost will depend on the independent valuation (current market value) and is very subjective in nature, unless it is done by a professional valuer. Critics of historical cost assert that the changes in the asset value during the entity's ownership must be recognized accordingly in the accounts especially due to the fact of inflation. A problem will arise because some assets are unique and they do not have the replacement value in the market. However, getting the exit value in a closed market may solve this. The issue of who would bear the valuation costs would also arise (Akram Khan, 1994a).

4.2.5 Fundamentals of Islamic accounting and the unsuitability of conventional accounting

Islamic business characteristics do not merely comprise technical and moral conduct, rather ethical consciousness is a part of the package of true Islamic business practices. Thus, the concept of *Adala* (justice) and *Ihsan* (benevolence) should be incorporated as well (Shahul and Yaya, 2001). The upholding of justice is found in many verses of the *Qur'an* where Allah *(s.w.t.)* has commanded Muslims to be just in all circumstances. Meanwhile, according to Siddiqi (1979), benevolence (*ihsan*) is the good behavior or an act that benefits the other persons without any obligation.

There are several reasons for the unsuitability of conventional accounting. Firstly, the objective of conventional accounting to provide information to the existing and potential shareholders, investors, creditors and other interested parties, is deemed not sufficient under Islamic accounting (Shahul, 2000). In fact, Islamic accounting has a much broader objective. Islamic accounting should provide useful information, financial and non-financial, for the stakeholders to make decisions. Shahul and Yaya (2001) cited Gray (1994) who asserts that conventional accounting has directed organizational growth at the cost of environment degradation[58]. Furthermore, the decision usefulness in the conventional accounting is argued to have deficiencies in the context of Islamic accounting in terms of its users' focus of its accounting information. Next, Gray (1996), as cited in Shahul and Yaya (2001), argues that conventional accounting operates under

58 Briloff (1996) and Arnold and Cooper (1999) argue that conventional accounting has contributed to the concentration of wealth at the expense of the public in the hands of a few individuals only (Shahul and Yaya, 2001).

the assumed pristine liberal economic society where the gap between the poor and the rich is not questioned and there is no room for environmental, social responsibility and ethical values other than utilitarian self-interest. Moreover, Shahul (2000) asserts that conventional accounting are being used to enrich the shareholders and creditors only, without much concern even for their own employees.

Secondly, many of the conventional accounting objectives are irrelevant to Islamic accounting objectives. Adnan and Ghafikin (1997) give two examples of some of the accounting concepts that are irrelevant to Islamic accounting such as the matching concept that leads to the preference of profit and loss orientation rather than the balance sheet approach. They argue that the objective of Islamic accounting is *zakat*. In fact, *zakat* is one of the many Islamic accounting objectives. Next, the objectivity concept that helps accounting users to make decisions not aligned with the primary objective of *zakat*.

Thirdly, conventional accounting is not sufficient to achieve Islam's socio-economic objectives. Quantitative information should be accompanied by qualitative information to enhance transparency and to achieve the concepts of truth and fairness. Some qualitative information is very crucial for the users to make decisions, for example, in the case of waqf, whether the distribution of the usufructs is made according to the waqf deeds and the performance efficiency of waqf assets' rental collection. So, it would be misleading if the waqf financial statements ignore such information. However, with conventional accounting, this type of information (non-financial information) is not mandated and users may have been deprived of this information 'legally'.

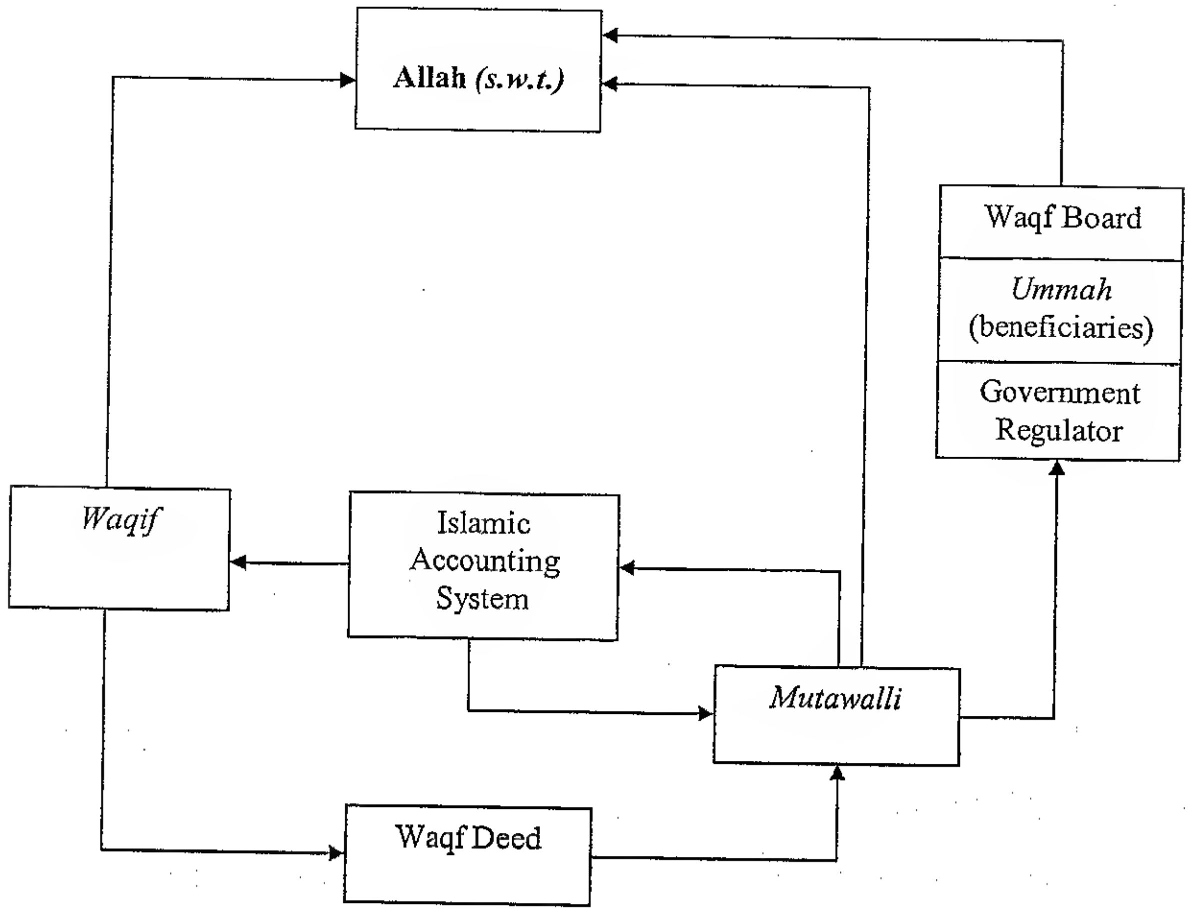
Henceforth, it is strongly argued that the present accounting system for waqf (which is based on conventional accounting) is not done according to the full *shari'ah* requirements. This should be noted and action must be taken to amend the situation. The discussion has also found that the historical cost basis is not in full agreement with the *shari'ah* and should not be followed. The historical cost valuation impairs the current value of waqf assets, where in the case of land, the value will always appreciate over time. For building and premises, though they are subjected to depreciation, their value may increase or decrease according to time, location and its condition. Therefore, there is a need for revaluation to determine its current value.

It is now clear that the theoretical framework of Islamic accounting is dichotomous to the conventional accounting (Shahul, 2000). Therefore, Islamic scholars should be ablc to derive the theoretical Islamic accounting frameworks, concepts, principles and rules specifically for Islamic accounting. It is hoped that from this study, accounting for waqf best practice could be outlined as the general guidelines for the waqf accounting processes and procedures.

It can be inferred from the arguments on the fundamentals of Islamic accounting and also the unsuitability of conventional accounting with all the issues, that accounting for waqf should not be based on conventional accounting, rather, there should be a special set of accounting guidelines and procedures for the use of accounting for waqf, whereby the basic and fundamental concepts must be in compliance to the *shari'ah* guidelines and requirements.

As for the conclusion, Shahul (2000) in his study provides a model for Islamic accountability that relates Islamic accounting to the concepts of accountability with the view that man is the *Khalifah*; and is subsequently accountable to Allah *(s.w.t)* as the primary source of accountability (please refer to Figure 4.1 on the next page). In this instance, the *waqif*, *mutawalli*, the *ummah* and the regulators are accountable directly to Allah *(s.w.t.)*. In the due process of waqf, the *waqif* enters a waqf deed (social contract). The *mutawalli* is responsible to other men as the beneficiaries through the waqf deed. The secondary accountability in this model is based upon the physical relationship between the *mutawalli*, the Waqf Board and the *ummah* (beneficiaries). The *mutawalli* should use the Islamic accounting system in discharging his duties as the manager of the waqf and *Khalifah* of Allah *(s.w.t)*. Therefore, in the context of waqf, the *waqif* and particularly the *mutawalli* have been made accountable to some amount of wealth or resources as an *amanah* or a trust, and this accountability is in accordance with specific *shari'ah* guidelines (Siti Alawiyah, 2004).

Figure 4.1: The Waqf Accountability Model (modified from: Shahul, 2000)



4.3 A Review of SORP 2005

For the purpose of this study, not all sections and paragraphs of the Statement of Recommended Practice (SORP 2005) Accounting and Reporting by Charities are reviewed. Only relevant and applicable guidelines are taken into account. Why does this study provide a review of SORP since it is not based on Islamic sources? The answer is that the Charity Commission (CC) has done a lot in the charity area and it appears that they have done it well. AAOIFI reiterates that an Islamic entity may learn from the existing guidelines and adapt them if they are compatible with the Islamic *shari'ah*. Therefore, the discussion on SORP will lead to some pointers for waqf practices.

The Charity Commission for England and Wales was formed under the Charities Act 1993 in the United Kingdom. The Charity Commissioners are appointed under the act principally to further the work of charities by giving advice and information and checking abuses. A Waqf Board may fit into this role or, the Waqf Department may act as waqf commissioner and operate in a similar way to the CC in Malaysia. The CC operates under these four headings (1) it maintains a public register of charities; (2) investigates misconduct and abuse of charity assets, and takes or recommends remedial action; (3) gives advice to charity trustees for effective administration; and (4) modernizes charities' purposes and administrative machinery. The CC also produces a range of publications and other materials, which provide information on their role, recommended best practice, the duties of charity trustees and charity law.

It is argued that the charities and endowments in the United Kingdom are based upon the Islamic waqf and even Oxford University is one of the examples, which is based on Al-Azhar University in Egypt, which was formed by waqf endowment[59]. One logical argument is that the crusaders acquired knowledge of the Islamic waqf during their campaign in the Middle East and brought back the ideas to their home country. Brooke et al., (1998) affirm that the organization of learning did not effectively develop in Europe until the twelth century, a period sometimes called the "Medieval Renaissance" which created institutional forms in self governing universities in France and England. So, if the West can learn from Islam, it is not wrong if Muslims learn from them (the good things only).

However, we can be sure that waqf had been developed in the Muslim world[60] nearly five hundred years before the English Trust. Meanwhile, endowments were founded in Paris before the end of the twelth-century. In 1180, Josce, a London vintner, on his return from a pilgrimage in Jerusalem, bought a room in the Hotel Dien to be appropriated for the

[59] Gaudiosi (1988), as cited in Nik Mustapha (1999) in 'Sumbangan *harta waqf kepada pembangunan ekonomi. Konsep dan perlaksanaan waqf di Malaysia'* (The contribution of waqf property to the economic development. Waqf concept and implementation in Malaysia). Institute of Islamic Understanding Malaysia (IKIM). For full article reference, please refer to Monica M Gaudiosi (1988) "The Influence of Islamic Law of Waqf on the development of the Trust in England: The case of Merton college", University of Pennsylvania Law Review, 136(4): 1231 – 1261 (Cizakca, 1998).

[60] Henry Cattan in "Law in the Middle East" (Vol. 1, p.205, 1995) states that the institution of waqf has developed with Islam and there is no evidence that such a complex system of appropriating usufruct as a life-interest to varying and successive classes of beneficiaries existed prior to Islam. Although the separation of ownership from the usufruct was not a new legal concept, the settlement of usufruct or property on successive generations in perpetuity for an immediate or ultimate charitable purpose, is an instruction developed by the jurists during the first three centuries of Islam. He further observe that the close resemblance between 'trust' and 'waqf' naturally leads to an enquiry as to whether the English Trust was derived from the Islamic waqf. There is no doubt that the waqf is the earlier of the two institutions. Waqf was developed during the eighth and ninth centuries and the origin of English Trust or Uses is of later date i.e. the thirteenth century (as quoted in Hasanuddin, 1998, p.29).

lodging of eighteen scholar clerks; they later acquired a house of their own (Brooke et al., 1998, p. 158).

Charity is created to provide something of benefit to others in society. However, charity cannot be created to help specific individuals[61]. Charity Law controls charity, part of which is drawn from decisions of the high court and the charity commissioners[62]. SORP applies to all charities in the United Kingdom and the Republic of Ireland. This is where the waqf is different from charity because waqf is formed for the benefit of the *Ummah*. It can be for the public (*waqf khayri*) or for a specific individual or purpose (*waqf fi ahli*). So, the Islamic waqf covers a wider spectrum of beneficiaries.

Some of the main advantages of being a charity arc that they do not pay income tax, corporation tax, capital gains tax and stamp duty. They also pay no more than 20% of normal business rates on the buildings, which they use and occupy to further their charitable purposes. They are also able to give the public the assurance that they are being monitored and advised by the CC. In the context of waqf, *zakat* is not levied on waqf assets. The SIRC is also exempted from paying stamp duty on the transfer of land or building title to the SIRC as trustee. Furthermore, the SIRC is also given free services for any valuation carried out by the Department of Valuation and Property Services. However, they are still required to pay land taxes to the government.

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[61] This has been a major difference between the English Law and the Waqf Law where charities for specific individuals, for example, descendants are not recognized as charity. This is a major contradiction to the *shari'ah* where charity for the family members is a prior obligation of the Muslims.
[62] CC 21, Part I, No. 3. Starting and Registering a Charity: Charities and the need to register, Charities Commission.

Trustees[63] are not allowed to receive financial benefits[64] from the charity which they manage unless it is specifically authorized by the CC or by the charity governing documents. Financial benefits include salaries, services, or the awarding of business contracts to a trustee's own business. Benefits that are incompatible with the establishment of an organization for exclusively charitable purposes cannot be authorized at all. However, the trustee is entitled to be reimbursed for the reasonable out of pocket expenses, for example, train fares to trustee meetings. As for waqf, the *mutawalli* is paid by the waqf fund because they are perceived as the trustee and should carry out the best of their duties for the waqf. This is to ensure that the *mutawalli* discharge their utmost care and are accountable for any actions or inactions. In addition, the job of a *mutawalli* is a permanent employment unlike the position of a trustee in a charity. This may also avoid conflict of interest on the *mutawalli*'s part. At present, SIRC's waqf staff are paid using the state budget.

SORP sets out recommendations on the way in which a charity should report annually on the resources entrusted to it and the activities it undertakes. The objective is to improve the quality of financial reporting by charities and to assist those who are responsible for the preparation of the charity's annual report and accounts and its auditors. Thus, it will reduce diversity in accounting practices and presentation. Although the waqf account has

[63] Charity trustees are the persons having the general control and the management of the administration of a charity. Trustees need to avoid any situations where charitable and personal interests conflict.
[64] It is not a normal practice for charity trustees, or the people connected with them to receive remuneration, or other benefits, from the charities for which they are responsible, or from institutions connected with those charities.

a few guidelines[65], they are not comprehensive enough compared to the SORP and have a much lower level of financial accountability. Currently, many waqf accounting records are not properly maintained by the SIRCs as evidenced from prior studies (Baharuddin, 1998; Abdul Rahim et al., 1999; Siti Rokyah, 2004) thus, signaling a low level of financial accountability.

The Charities Act 1993 also mentions the term annual report as a concise but comprehensive review of the annual activities of the charities prepared by the trustees for each accounting year. It helps to monitor charities. The SIRCs in Malaysia is required to submit their annual reports for audit by the National Audit Department. However, most SIRCs do not comply with the time frame given (Siti Rokyah, 2004). Meanwhile, the term *permanent endowment* means the property of the charity, for example, buildings, cash and investments that the trustee may not spend as if it were income. It must be held permanently, sometimes used in furthering the charity's purposes, sometimes to produce an income for the charity. The trustee cannot spend *permanent endowment* without the authority of the CC. The terms of the endowment may permit assets to be sold and reinvested, or may provide that some or all of the assets are retained indefinitely (for example, a particular building). This is very close to the waqf definition where the assets are permanently owned by the waqf and cannot be transferred, sold or exchanged[66].

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[65] The guidelines are the Federal Territory State Islamic Enactment (1993), Waqf Financial Written Procedures, Other Procedures, Treasury Instructions and Circular Instruction (Siti Rokyah, 2004).

[66] The exception to this rule is the *waqf istibdal*, which is very controversial and rarely practiced especially in the Malaysian environment.

All charities are also required to prepare and maintain accounting records. The records (cash books, invoices and receipts) must be retained for at least six years. The accounts must be made available to the public on request; this is vital underpinning to the principle of public accountability and must be complied with in all cases. It is open to trustees to make a reasonable charge to cover the costs of complying with the request, for example, the cost of photocopying and postage. As a matter of good practice, SORP 2005 recommends that a copy of the charities' annual reports should, where possible, be sent with the accounts. In the case of waqf, the costs should be charged to the persons requiring the information except for regulatory purposes, where the costs may be defrayed by waqf income as management expenses.

4.3.1 Accounting and reporting requirements

The above is an introduction and a brief outline of the framework, and now the important part of the SORP where the specific requirements are laid down, is reviewed. The SORP states that the accounts are a report in financial terms on the activities and the resources of the charity. Accounts are prepared on an accrual basis, consisting of a Statement of Financial Activities (SOFA) for the year showing all incoming and outgoing resources and reconciliation of changes in its funds. Then, a balance sheet showing the recognized assets and liabilities with the types of the charity funds; a cash flow statement, when required, in accordance with accounting and reporting standards; and notes to the accounts explaining the information contained in the financial statements. The

corresponding figures for the previous accounting period should be provided in the accounts in accordance with the GAAP.

The four items are considered as primary statements and should not be relegated to the notes to the accounts. The notes to the accounts should include the accounting policy chosen, consistent with the SORP, Accounting Standards and relevant legislation i.e. the Charities Act or Companies Act. Any material departure should be reported, stating the reason and justification, and the financial impact. The SORP states that the onus to prepare the annual report and accounts rests with the trustees. All trustees are jointly responsible for the preparation of the annual report and accounts in each financial year and should include any other information required by the law, for example, the legal and administrative information. In the case of waqf, the SIRC (as the sole trustce of waqf) is the responsible party to produce the annual report and accounts.

4.3.2 General principles

The SORP is intended for the accounts to show a true and fair view and must be prepared on the going concern assumption, and the accruals concept to provide information that is relevant, reliable, comparable and understandable (SSAP2/FRED 21). Therefore, it should follow the standards laid down in the Statements of Standard Accounting Practice (SSAPs), Financial Reporting Standard (FRSs) and Urgent Issues Task Force abstracts (UITFs) issued or adopted by the Accounting Standards Board or its predecessors and successors, which are relevant to the charity's circumstances and accounts. Charities are

also required to account for the proper administration of the individual funds, for example, the *Restricted Funds*, *Unrestricted Funds* and the *Endowment funds*.

The notes to the accounts should provide information on the structure of the charity's funds so as to disclose the fund's balances as well as identifying any material individual funds in particular, on the assets and liabilities representing each type of fund, the disclosure of how each of the funds has arisen, any funds in deficit and provide an explanation on any material movements in the funds.

4.3.3 Statement of Financial Activities (SOFA)

This statement shows all incoming and expended resources by the charity in a year. The various categories of incoming and outgoing items must be analyzed so that the reader can see and understand where its resources came from and what it spent its resources on during the year. The criteria for recognition of incoming resources are entitlement, certainty and measurement. Entitlement normally arises when a particular resource is receivable or the charity's right to it becomes legally enforceable. Certainty is when there is reasonable certainty that the incoming resources will be received and measurement is when the monetary value of the incoming resource can be measured with sufficient reliability.

Incoming resources are from activities for the furtherance of the charity's objectives such as the sale of goods and services. Secondly, activity of generating funds such as from

selling donated goods. Meanwhile, *investment income* is in the form of dividends, interest and rents from *investment assets* but excluding capital returns. On the expenditures, all should be included in the SOFA in accordance with the accrual concept. Expenditures, with the exception of grants payable, are not usually incurred until consideration for the expenditure has passed or been received. A liability will arise when a charity is under obligation to make a transfer of value to a third party and must be recognized as soon as the obligation arises.

4.3.4 Balance sheet

According to the SORP, the balance sheet provides a snapshot of the charity's assets and liabilities at the end of its accounting year and how the net asset position is split between the different types of funds. The balance sheet will not always include all of the assets and liabilities of a charity, nor attach an up-to-date valuation for all assets. Some inalienable and *heritage* (historic) *assets* or contingent liabilities may be omitted. In such an event, details must be provided in the notes to the accounts. It is the objective of the balance sheet to show the extant resources available to the charity and whether it has any encumbrances.

For the structure of the balance sheet, the funds should be grouped together according to their kind. The balance sheet should show assets and liabilities under the following headings: fixed assets, subdivided between: intangible assets; tangible assets; inalienable and historic assets; and investment. For current assets, the subdivision is stocks and works

in progress; debtors; investments; cash at bank and in hand. Subtotals should be given for both types of assets. Next are creditors, where the amount is falling due within one year. Net current assets or liabilities, total assets less current liabilities, creditors falling due after more than one year, provisions for liabilities and charges, net assets, the funds of the charity divided between unrestricted income funds; restricted income funds and endowment funds.

The presentation of the balance sheet could either be in vertical format or in columns appropriately divided between the three types of funds. In addition, the balance sheet items should be analyzed to enable the reader to gain a proper appreciation of their spread and character. Intangible fixed assets should be included in the balance sheet in accordance with FRS 10 "Goodwill and Intangible Assets".

Tangible fixed assets (other than investment) should be capitalized on initial acquisition and included in the balance sheet at cost or valuation and may be subject to revaluation. Subsequent expenditures, costs that are directly attributable, which enhance (rather than maintain) the performance of fixed assets should also be capitalized. Where the net book value of a fixed asset is higher than its recoverable amount it will be impaired and should be written down to its recoverable amount. Assets held for charity (*charity assets*) use can be regarded as *functional fixed assets* if only a small part of the assets is leased; or the lease is for a short period of time. *Masjid* is a good example of a *functional fixed asset* in waqf accounting. Assets held primarily for investment purposes, where a small part is used for functional purposes should be classed as *investment assets*.

Fixed assets held for the use of charity (*charity assets*) should be depreciated at rates appropriate to their useful economic life in each case, the reasons being wear and tear, their being consumed or otherwise suffer a reduction in their useful life through use, the passing of time, or obsolescence. Their value is thus gradually expended over their useful economic life. This expenditure is recognized as an annual depreciation charged in the SOFA and shown in the balance sheet as accumulated depreciation deducted from the value of the relevant fixed assets. Exception for charging the depreciation will be if the assets are freehold land when the depreciation charge and accumulated depreciation are not material because the assets have a very long useful life (SORP 2005); or the residual value is not materially different from the carrying value of the asset, or the assets are heritage assets and have not been included in the balance sheet. Tangible fixed assets should be analyzed in the notes to the accounts.

Heritage assets should be capitalized and included in a separate line in the balance sheet and further subdivided into classes appropriate to each charity for example churches, collections, historic houses and artifacts. An appropriate depreciation policy should be applied accordingly. However, a charity will not need to capitalize or value *heritage assets* when it is difficult or costly to attribute a cost or value to them (SORP 2005). In such cases, the assets may be excluded from the balance sheet. However, information on the assets should be given in the notes to the accounts or in another publication that is referred to in the notes to the accounts and is available to the public in the same way as the accounts.

Fixed tangible assets other than *investment assets* do not need to be revalued unless the charity adopts a policy of revaluation. The notes to the accounts should give explanations on the basis or bases of valuation, name and qualification of the valuer, where records are available, the historical costs less depreciation and, date of previous full valuation and if the value has not been updated in the reporting period, a statement by the trustees that they are not aware of any material changes since the last valuation. *Investment assets* and cash held for investment purposes should be classified as a separate category within fixed assets except where the intention is to realize the assets without reinvestment of the sale proceeds. In such a case, it should be classified as current assets.

For contingent assets and liabilities, a charity may have them as defined in FRS 12 and should not recognize them in the SOFA or the balance sheet because it could result in the recognition of incoming and outgoing resources that may never be realized. Where it becomes probable that there will be a future outflow of resources to settle an item previously regarded as a contingent liability, it should be deemed a liability and should be accrued in the accounts.

4.4 Summary and conclusion

It is argued that the current basis of the waqf accounts as used by the SIRC is very much in question as to its compliance with the Islamic *shari'ah,* which has been discussed above. Furthermore, the objective of conventional and Islamic accounting differs greatly, which makes conventional accounting unsuitable in the Islamic accounting environment.

A few issues such as waqf assets and income recognition, asset measurement and valuation and disclosures need to be resolved before a complete framework of Islamic accounting on waqf is ready.

The SORP 2005[67] would give a very good frame of reference for the waqf accounting best practice, as it is a very effective and efficient mechanism in overseeing the accountability and governance of the charities in the United Kingdom. Certainly, not all of their provisions are compatible with the Islamic *shari'ah.* Nevertheless, it would not be unsuitable if some modifications were applied so that it could conform to the *shari'ah.* The research methodology of the study is discussed in the next chapter.

[67] The full text of the Statement of Recommended Practice (SORP 2005) may be viewed at http://www.charity-commission.gov.uk/investigations/sorp/default.asp.

CHAPTER 5

RESEARCH METHODOLOGY

5.1 Introduction

This chapter is intended to elaborate in detail the research designs and approaches that are used in this study. Only relevant methods are applied, thus the results are more rigorous and provide a true reflection of what is happening in the research environment. In Section 5.2, the research questions are discussed. Section 5.3 follows this where details of the research design and methods are presented. Data collection methods are explained in Section 5.4, while sample selection is discussed in Section 5.5. Section 5.6 deals with validity issues, followed by statistical analyses in Section 5.7. The chapter ends with a summary and conclusion in Section 5.8.

5.2 Research questions

There are three research questions developed for this study. 1) What are the current Federal Territory SIRC practices on waqf administration and management, especially accounting practices? 2) Are there any problem areas in the current practices when compared to the Charity Commission practices and the literature? 3) What policy recommendations should be addressed to Federal Territory SIRC regarding waqf practices having regard to compatible accounting practices recommended by SORP 2005

for charities? With the three research questions in hand, this study was embarked upon to provide some possible solutions for the future improvement of waqf practices by the SIRC to be noted by the relevant authorities.

5.3 Research design and methodology

The first step in the research design would be reading the relevant literature and getting to know the case or cases in the settings, then to decide the broad aims and refine the research questions. This is an exploratory, descriptive and cross-sectional case study in the sense that little or limited knowledge is available on the current practices of waqf by the SIRC. So, this study tries to answer the question of what is being practiced and what new things could be incorporated for a more effective and efficient waqf towards achieving the waqf objcctives spccifically and the objective (*maqasid*) of the *shari'ah* generally, in terms of accountability.

Descriptive approach means that the study is concerned with finding the current waqf practices of the Federal Territory SIRC. Thus the report is in the narrative style (Fink, 1998). Cross-sectional research is chosen to represent a snapshot of what is being practiced at a point in time, and therefore, refinement and improvement could be made. Cooper and Schindler (2003) assert that exploration is useful when the research lacks a clear idea of the problem under study and it will help the researcher to develop the research processes throughout the study.

Yin (1994) describes case study as an empirical enquiry that investigates a contemporary phenomenon within its real-life context, especially when the boundaries between the phenomenon and context are vague. The case study method is the primary method[68] chosen, as it will provide an avenue for in-depth context analyses of the conditions and their interrelations in order to grasp a clear and detailed understanding of what is happening in the complex circumstances of the subject under study (Moore, 2000). This method is used where a large-scale survey would not provide the detailed understanding required.

The case study method is the most appropriate method because according to Gillham (2000), a case study investigates a unit of human activity embedded in the real world; which can only be studied or understood in context; which exists in the here and now; that merges in with its context so that precise boundaries are difficult to draw. Therefore, using this method will answer specific research questions, that may be fairly loose to begin with, and which have to be extracted and collated to get the best possible answers (Gillham, 2000).

Although the study is exploratory in nature, both quantitative and qualitative techniques are applicable. However, it will rely more on qualitative techniques with an inductive

[68] The different sub-methods applicable would be interviews, observations, document and record analysis, work samples and so on. This is also called a multi method approach (Gillham, 2000). Yin (1994) asserts that case study required no control over behavioral events and it focuses on contemporary events. He further answers the common concerns that case study provide little basis for scientific generalization by saying that case study, like experiment, is generalizable to theoretical proposition and not to population or universe or as Lipset et al., (1956) state, the goal is to do a generalizing and not a particularizing analysis. O'Leary (2004) argues that case study has intrinsic value and may bring a new variable towards a new understanding.

approach that emphasises words rather than numbers (Maxwell, 1996). The preference of this study towards the qualitative method is because it focuses primarily on the kind of evidence that will enable an understanding of what is going on (Gillham, 2000). In addition, the actual data that is collected may be specific to one particular set of circumstances or place, but the theory may be usable to understand other relevant situations (Gillham, 2000).

Another approach that is suitable and used in this study is the interview approach. The interviews are conducted in the field setting (actual conditions). Although they are in-depth, the interviews are more conversational than structured[69]. The interview questionnaires are part of the research instrument. Participant observation[70] (being involved) is done to get a firsthand experience in the study's setting (Travers, 2001) and lastly, waqf documents are analyzed to evaluate the flow of the processes rather than relying only on verbal (intcrview) input. This makes the data and evidence even more reliable.

5.4 Methods of data collection

There is no single method of collecting data that is better or has more quality than another (Yin, 1994; Fink, 1998). Therefore, in this study, a combination of various methods is

[69] Semi-structured questions in in-depth interviews are preferred in collecting qualitative data to increase flexibility and responsiveness from the respondents.

[70] Observation has three main elements: watching what they do, listening to what they say and sometimes asking them clarifying question (Gillham, 2000). According to O'Leary (2004), observation is a systematic method of data collection that relies on a researcher's ability to gather data through his or her senses. However, she added that it has to be further verified.

used to get the most reliable results from different sources. Primary data are gathered through communication and monitoring processes. Communication means the subjects are questioned and their responses are collected instantly or delayed to give them more time to get the relevant information.

In addition, casual conversations were carried out with the personnel in the General Resources Unit and also the Finance and Accounts Unit to enable a deep understanding of waqf operations and issues (Mazzucato and Niemeijer, 2003). Document analysis is the collection, review, interrogation, and analysis of various forms of waqf text as a primary data source of this study (O'Leary, 2004). Furthermore, observations of the processes and activities were carried out, as well as inspection of the documents related to waqf. The secondary data was obtained from the Federal Territory SIRC data archives and records, for example, the audited annual report of the SIRC that is also available at the Malaysian National Audit Department (NAD). The waqf documents analyzed for the data collection is presented in Table 5.1 on the next page.

Table 5.1: Waqf documents analyzed

Particular	Reviewed and noted
Major documents	
State Islamic Enactment	√
Waqf written procedures (in-house)	√
Other procedures	Not available
Treasury Instructions	√
Circular Instructions	√
20 waqf files to trace and document its procedures and processes	√
Waqf Assets Register	
Recording basis	√
Depreciation policy and reporting	√
Assets revaluation	√
Frequency of updating	√
Closing of register - monthly/yearly	√
Accounts Receivables	
Recognition policy	√
Banking procedures	Not available
Rent collection and monitoring	√
Statement of accounts (SOA)	√
Accounts Payable	
Limit of authority	Not reviewed[71]
Payment policy	√
Preparation of payment voucher	√
Flow of payment voucher	√
Investments	
Policy and management	√
Recording basis - historical/market value	√
General accounts	
Journal and ledgers	√
Financial statement	Not available
Waqf accounts flow	√
Qualitative data - SIRC annual report	√

[71] According to the waqf trial balance, waqf transactions amount were not significant.

Analyses of the strengths and weaknesses of each type of data collection methods are presented to enable a thorough understanding of each method undertaken in this study. Please refer to Table 5.2 below.

Table 5.2: Summary of data collection method strengths and weaknesses

Source of evidence	Strength	Weaknesses
Documentation	-stable, can be reviewed repeatedly -unobtrusive - not created as a results of the case study -broad coverage	-retrievability can be low -biased selectivity - if collection is incomplete -reporting bias and access may be deliberately blocked
Interview	-targeted - focused directly on case study topic -insightful - provides perceived causal inferences	-bias due to poorly constructed question -response bias -inaccurate due to poor recall -reflexivity - interviewee gives what the interviewer wants to hear
Direct observations	-reality - covers events in real time -contextual - cover context of events	-selectivity unless broad coverage -reflexivity - event may proceed differently because it is being observed -costs - hours needed by human observers
Participant observation	-same as above for direct observation -insightful - into interpersonal behavior and motives	-same as above for direct observation -bias due to investigators manipulation of events

Source: Yin (1994, p. 80); Travers (2001)

5.5 Sample selection

Qualitative studies tend to rely on single settings and relatively small samples from which in-depth information is collected (Fink, 1998). Only the Federal Territory SIRC is chosen in this study because it is reported to be the most advanced SIRC in Malaysia (Zainal

Abidin, 1999). Furthermore, the SIRC is able to provide the necessary documentation for the research. The location of the SIRC, which is nearby, helps the researcher to commute easily to the research site. Also, the Islamic Center, where the SIRC's offices are situated, maintains a good library for further references. All these factors contribute positively to the selection of the Federal Territory SIRC.

The target groups of respondents (personnel of the Federal Territory SIRC) are identified and are segregated into three groups of people who are directly involved with the waqf administration and management. The first group is the personnel in the waqf unit of the General Resources Department of the Federal Territory SIRC, the second group consists of the Investment and Development Division of JAWI who are responsible for the investments and development of the SIRC property including waqf property, and the third group is the finance and administration department who handle the accounting and management aspects of the waqf in the SIRC. These three groups are selected because they are the primary people directly and indirectly involved with the preparation of the waqf accounts, management and administration of the waqf assets.

5.6 Validity issues

Maxwell (1996) argued that validity is an important issue to be acknowledged and explicitly addressed in qualitative research design. Different kinds of data or different sources on the same issues commonly yield contradictory or discrepant results (Gillham, 2000). According to Gillham (2000), triangulation is needed because there are often

disagreements in data; what people say may differ with what they do. It is a common misconception and it is argued that they are not deceitful but just inaccurate (Gillham, 2000).

Denzin (1970), as cited in Maxwell (1996), argued that triangulation is the process of collecting information from a diverse range of individuals and settings, using a variety of methods to reduce the risks of systematic bias and also limitations of a specific method, thus increasing the validity of explanations developed. In view of the validity threats, Maxwell (1996) divided it into two specifics, that is, researcher bias[72] and reactivity[73] in which many studies might have been implicated. In order to address some of the validity threats, Maxwell (1996) suggests some possible solutions in three areas, 1) Description inaccuracy or incompleteness of data: to record and transcribe interview; 2) Interpretation threat: to listen to the participant's meaning and try to understand the participants in the study; and 3) Theory; to be articulate and alert, and open to various methods of understanding. Member checks are also advisable[74].

Cross-referencing is basically noting what they say, what you see them doing, what they make or produce and what documents and records show. It is some kind of a chain of evidence that is interwoven into narrative accounts. Peer consultation with the research

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[72] Researcher bias is concerned with the selection of data that fits the researcher's existing theory or preconception and data that stands out to the researcher (Miles and Hubberman, 1994, as cited in Maxwell, 1996).

[73] Reactivity concerns the influence of the researcher on the setting or the individual studied and the approach is to control for it. However, contrary to some believe, reactivity is not a serious validity threat (Becker, 1970, as cited in Maxwell, 1996).

[74] A process of soliciting feedback about one's data and conclusions from the people under study, argued to be a useful strategy for identifying validity threats, researcher's bias and flaws in the logic or methods.

supervisors, other students and even other researchers sometimes gives a clearer picture of the research undertaken by discussing with them the methods and issues which may not be thought of by the researcher. Also, to increase reliability of the case study, Yin (1994) proposed the use of case study protocol[75] and developing a case study database[76] during the data collection stage. The objective is that if a later research follows the same procedures, it should arrive at the same findings and conclusion given the emphasis that it is repeated over and over again on the same case.

5.7 Statistical Analysis

As it has been mentioned earlier that this study relies heavily on qualitative techniques, only simple statistical tests will be applicable. Qualitative research is more concerned with information that is less easily understood by means of counting. However, it is still possible to take a quantitative approach on issues that are qualitative in nature (Moore, 2000), for example, some ratio analyses on the variables to describe or explain the circumstances.

5.8 Summary and conclusion

Research methods in qualitative studies are quite different from the quantitative studies. The differences enable the qualitative studies to achieve their objectives in understanding

[75] A case study protocol should include a brief overview of the background and issues of the case study, field procedures for data collection, case study questions and a guide for the case study report.
[76] A case study database includes the field notes and other relevant research documents.

complex and social practices by describing detailed analyses of events that may not be explained by quantitative analysis. This study utilizes several methods that are proven by previous literature in order to increase the validity and reliability of its findings and conclusions, and also to answer the research questions. However, generalizations may not be applicable to other situations or studies, as more data is needed to support overall generalizations. The organizational review and systems finding is presented in the next chapter.

CHAPTER 6

ORGANIZATIONAL REVIEW AND SYSTEMS FINDING

6.1 Introduction

This chapter gives the background of the Federal Territory SIRC and its relations with some of the other related organizations, i.e. the Federal Territory State Islamic Department (JAWI), the Islamic Development Department of Malaysia (JAKIM) and the Department of Wakaf, Zakat and Haji (JWZH). All these are covered in Section 6.2. Section 6.3 outlines the waqf procedures in the Federal Territory SIRC. The administration and management of waqf is presented in Section 6.4, followed by the financial and accounting regulations and policies in Section 6.5. The accounting system of the Federal Territory SIRC, with findings on the waqf fixed assets and waqf investments, is discussed in Section 6.6. Next, in Section 6.7, the collection and distribution of waqf usufruct is discussed. This chapter ends with a summary and conclusion.

6.2 Organizational Review

The Federal Territory SIRC was formed under the Act 505, 'Akta Pentadbiran Undang-Undang Islam' or the State Islamic Enactments (Federal Territories) 1993, to be the policy maker and the main body monitoring the development of Islam in the Federal

Territories. It is also the main body giving advice to the *Yang Di Pertuan Agong* as the head of the Federal Territories (Zainal Abidin, 1999). Its duties include the overall monitoring of; *Musolla, Masjid and madrasahs* (religious schools), the collection and distribution of *zakat*, management and development of waqf land, and inheritance land on trust to Federal Territory SIRC, management of marriage and divorce, reference for family problems, enforcement of Islamic law and social development of the Islamic community. The Federal Territory SIRC has the authority to make or amend any provisions of the law under its jurisdiction.

In order to assist the Federal Territory SIRC, JAKIM (of the Prime Minister's Department) set up the Federal Territory State Islamic Department (JAWI). For further reference, please refer to organizational charts in Appendix II (Federal Territory SIRC) and Appendix III (JAWI). The Federal Territory SIRC under Section 61 and 62 of the Act 505, *Akta Pentadbiran Undang-Undang Islam (Wilayah-Wilayah Persekutuan)*, 1993, is given certain powers under its provision for the Federal Territory SIRC to be the sole trustee for all waqf, general or specific (Zainal Abidin, 1999). However, the development and investments of waqf property is under the Development and Investment Division of JAWI.

Meanwhile, the Management Services Division of the Federal Territory SIRC handles the financial aspects headed by a Chief Assistant Director and assisted by three accountants

with assistants and support staff respectively[77]. The Director of JAWI is automatically appointed as the Secretary of the Federal Territory SIRC. At the moment, the current Chairman of the Federal Territory SIRC is one of the Ministers in the Prime Minister's Department. Recently, a Department of *Wakaf*, *Zakat* and *Haji* (JWZH) was formed, also in the Prime Minister's Department, to coordinate and monitor the activities of waqf, *zakat* and *Haji* in Malaysia.

6.3 Waqf procedures in the Federal Territory SIRC

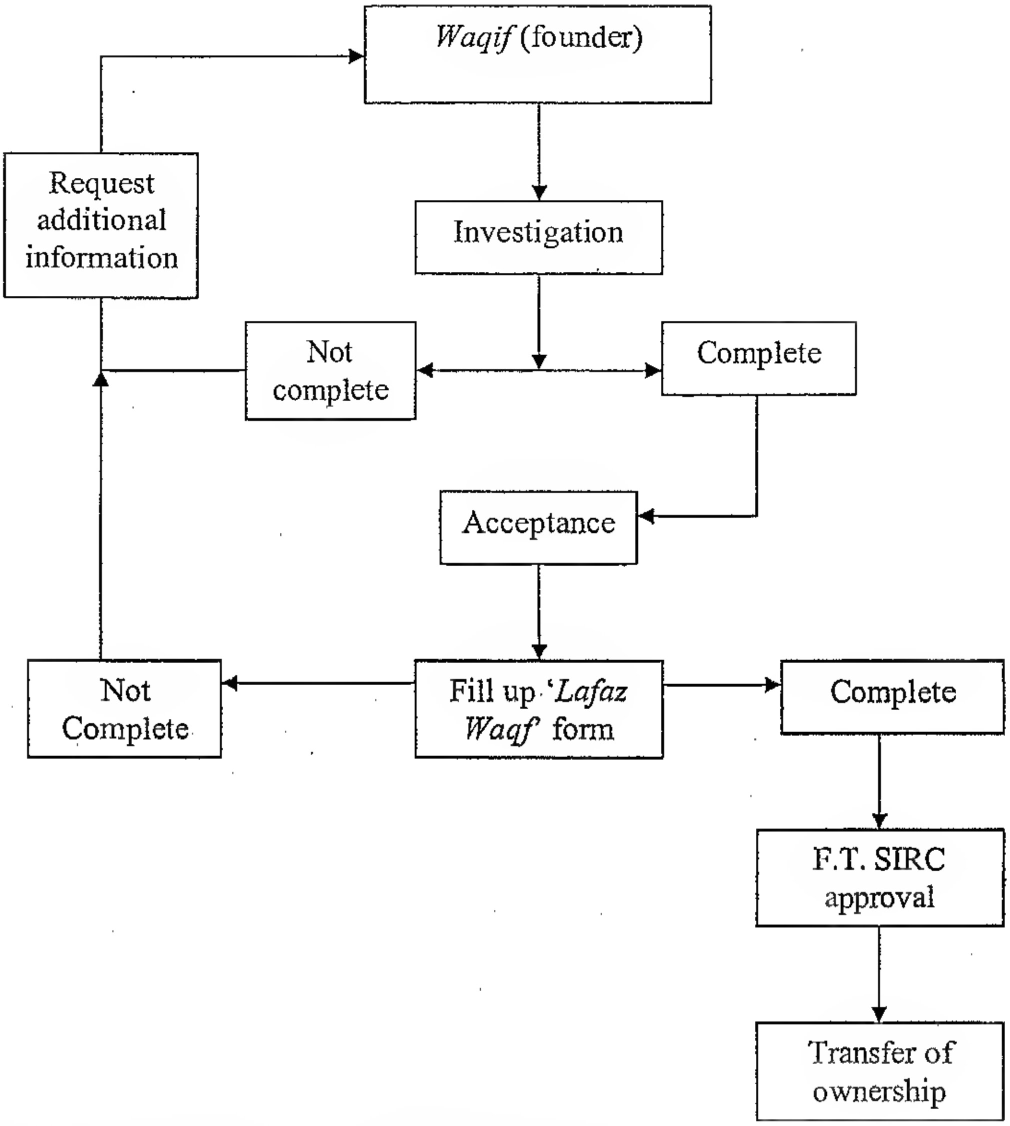
The SIRC is responsible, as the sole trustee of waqf in the Federal Territory, to accept, manage and administer waqf property received from the Federal Territory public. Hence, there are some procedures that the founder must follow in order to waqf their property. Firstly, an official waqf application lcttcr must be addressed to the General Resources Unit, Baitulmal, Federal Territory SIRC with proof of ownership in the form of a grant copy (Form 5D, Section 87, National Land Code) and a copy of receipt for land tax payment, Form B1, Schedule 14, the land map, or any official evidence to prove the ownership of the intended waqf property. Then, the Federal Territory SIRC will conduct a detailed investigation and inspection of the intended waqf property to ensure the actual status of the property ownership, which must be complete and free from any encumbrances before it can be converted to a waqf.

[77] Please refer to the Federal Territory SIRC Management Services Division organizational chart as per Appendix IV.

When the result of the inspection is good and there is no other unreasonable matter, the *waqif* is required to fill in the "*Lafaz Wakaf*[78]" form and have it witnessed by two eligible persons before the SIRC puts its acceptance stamp on the form. Another important form which the *waqif* has to fill in is Form 14A of the National Land Code for the transfer of title to the SIRC as the waqf trustee. *Waqif* will have to perform the Waqf *Ijab* and *Qabul* before the process is deemed completed. For a deceased person who intends to endow, a will is required and the intentions to waqf a property must be stated in the will, otherwise it will have to go through the process of *faraidh* first. However, all costs, for example, the legal fees for title transfer will be paid by the Federal Territory SIRC. Figure 6.1 on the next page describes the waqf procedure.

[78] Please refer to Appendix V.

Figure 6.1: Waqf procedures flow



(Source: Federal Territory SIRC; Abdul Rahim et al., 1999)

6.4 Administration and management

The waqf administration and management is put under the sub-unit of General Resources of the Baitulmal Affairs Unit, which is headed by an Assistant Director with two support staff (clerical level). The Assistant Director reports to the Baitulmal Chief Assistant Director (KPP) who is under JAWI. Currently, *Ustaz* Ahmad Ismail is the Assistant Director of the Baitulmal General Resources Unit. The Assistant Director still asserts that there are still issues of lack of human resources and not enough skilled people to handle the administration and management of waqf property as found by previous studies[79]. A skilled person means a person with adequate knowledge of the waqf administration and management especially in the *shari'ah,* as well as operations. The Federal Territory SIRC is also lacking financial resources to develop waqf property.

Another equally important issue in waqf management is the legislative issues with regards to the provisions in the National Land Code, the land legislation in Malaysia. According to the National Land Code, if the land area is smaller than one acre it is very difficult to transfer the land title, as it will usually involve many owners in one grant. This issue has discouraged Muslims to endow their land for waqf. Furthermore, bureaucracy and red tape regarding the transfer of the land title from *waqif* to the Federal Territory SIRC as waqf trustee makes it an enduringly long process. Therefore, the Federal Territory SIRC as the waqf trustee takes a long time to resolve many issues before the approval of transfer can be made. There is one case of a *waqif* who is an eighty-seven year old man

[79] See Baharuddin (1998); Abdul Rahim et al., (1999); Siti Rokyah (2005). Based on an interview with the Assistant Director of the General Resources Unit, on July 1, 2005.

who wishes to terminate his waqf because the issue of transfering the land title has not been resolved for nearly two years. In this case, the issue arises of whether the *shari'ah* allows the withdrawal after he has endowed the land. The *fatwa* committee of the Federal Territory SIRC in their decision allowed that if the *waqif* is still alive, he could change the waqf for a better purpose of the *ummah*.

Another case is whereby the Land Office had mistakenly registered 3/10 of the land area as waqf instead of only 1/10. The Land Office refused to cancel or amend their mistake when other landowners in the same grant demanded their part of the property. This issue is still pending. The problem is, three out of seven of the original owners whose names are in the grant had died and the Federal Territory SIRC needs to find the beneficiaries for this matter, which is not an easy task.

The Chief Assistant Director (KPP) of Baitulmal, Mr. Halid, agrees with the issue raised by the Assistant Director. The KPP opines that the lack of human resources and financial resources dampens the management and improvement of the waqf property especially landed property. Any suggestions for enhancement must be made and agreed upon at the council members' meeting. It is noted that there has been no increase of waqf property for the past two years in the Federal Territory, since 2003. The KPP further acknowledged that there are problems in transferring the land title with the Land Office if the land area is too small. The Federal Territory SIRC has to incur some cost in valuing and surveying the land in order to divide it into smaller lots, according to the ownership details in the grant. When asked about cash waqf, the KPP said that it has been pending

under the Federal Territory SIRC council members' discussion since 2002, and has not yet been resolved.

6.4.1 Waqf files review

A total of 20 waqf files were reviewed from a total of 30 (67%). The files reviewed[80] were 13 *waqf khayri* files, out of 18 (72%) and 7 *waqf khas*, out of 12 (58%). All the files were picked out on a random basis. Overall, all the waqf files contained the necessary documentation on the respective waqf with each file being given a specific reference code i.e. BWP/05/03/ (pers) 001. All files have the waqf intent letter or the waqf deeds except for one file, which might have been misplaced and this omission is noted in the file. The filing system is an old system and there are many duplicated documents in all the files. There is no electronic database on waqf administration and management available[81] for easy retrieval and referencing. One has to go through each of the files to find any necessary document regarding the waqf.

Other issues which arose from the files reviewed include rental of waqf property to non-Muslims (rental of a waqf house) and illegal occupation of waqf property also by non-Muslims, and non-Muslims conducting business in waqf property. These issues involved many parties including the Member of Parliament of that location raising this issue to the

[80] Please refer to Appendix VI.
[81] The Assistant Director of the General Resources Unit cited lack of expertise and top management commitment as the source for no waqf databases implemented yet. Based on an interview on July 1, 2005, however, he asserts and agrees that it is important and will try to work for the waqf database implementation.

Prime Minister's Department. It is vital to emphasize here that waqf is for the benefit of Muslims and Muslims must be given due priority, however, if there is excess, it is permissible to contribute to non-Muslims. There was one *waqf istibdal* on one *waqf khayri* landed property located in Kampung Baru, which was sold to a Muslim company for RM300, 000.00 and *istibdal* with three double-storey terrace houses at Taman Pelangi Jaya, Kuala Lumpur. The Federal Territory SIRC *fatwa* committee sanctioned it.

There are no clear reasons for the *istibdal*. However, it is believed that the Federal Territory SIRC is facing difficulties in collecting rent (after sending some legal letters demanding payment of rent at market value) on its waqf asset due to the company buying the land (50/63) surrounding the waqf land from its owners and the SIRC waqf land being only a small part (13/63) of the property in one grant. Subsequent negotiations on rental failed and the company offered to buy the waqf land.

Another finding was on a company called 'Perbadanan Pembangunan Wakaf (Malaysia) Sdn. Bhd. It is also known as 'Wakaf Corp.', a wholly owned subsidiary company of *Yayasan Pembangunan Ekonomi Islam Malaysia* (YPEIM). While YPEIM is familiar to the researcher, Wakaf Corp. has never been heard of before; it is also uncertain whether this company is still active or has become dormant. No information is available on Wakaf Corp., except for some letters sent to the Federal Territory SIRC to enquire about future developments of waqf property.

There is also one waqf case which is still pending because of the disputes between the *waqif* and the Federal Territory SIRC. In this case, the *waqif* has put forward certain conditions on his waqf, which may not be acceptable either to the practices of waqf in the Federal Territory or according to the State Islamic Enactments. Rather, the conversion of the land status must be completed before the approval to build a *Masjid* is granted, as stipulated under the State Islamic Enactments. The rationale for waqf land title is that the *Masjid* will be under the SIRC's jurisdiction and no other party may interfere or order for the *Masjid* to be demolished later. However, if the *Masjid* is built without the approval of the SIRC, it may be demolished because it has not been granted the permission to operate as a place of *ibadah* by the SIRC.

The *waqif* is afraid that if the Federal Territory SIRC managed to register the land title, then, he will not have any bargaining power to enforce his own terms and conditions such as the appointment of the Masjid official must be made from among his family members only. The misunderstanding and misperception of the public on waqf procedures have contributed to the delays. This phenomenon is partly due to the lack of information on waqf made available to the public by the SIRCs and insufficient campaigns and promotion to inform the public about waqf.

Further discussions with the Assistant Director of the General Resources unit reveal that from January to June 2005, there were six pending waqf cases two of which were already more than two years old. One of them was as per the above discussion. Many were due to the small lot sizes, which made it difficult for the Federal Territory SIRC to transfer the

land title due to there being many beneficiaries under the same grant. Others include the property not being a full ownership property as it is still under the name of the *waqif* who was deceased and subject to *faraidh* division among other beneficiaries.

Table 6.1: Analysis on waqf file review

Type	Reviewed	Total	%
Waqf khayri	13	18	72
Waqf khas	7	12	58
Total	20	30	67

6.5 Financial and accounting regulations and policies

The main financial guidelines come from the '*Shari'ah* Administration Enactments 1952', 'Baitulmal Procedures (Federal Territories) (Expenditures and Application) (replacement)' 1988, section 2(b) which reads, "replacement of sub section 3(a), No money or resources in the Consolidated Funds may be used for the purposes stated in Section 3 and 4 unless with the prior approval of the committee". Section 3(b) all approval by the committee must be reported to the council and section 3(c) the council from time to time may give its orders which must be executed by the committee. These amendments were approved by the cabinet on November 11, 1988 and enforceable since May 9, 1988.

Other guidelines such as Treasury Instructions, Circular Instructions and the Financial Reporting Standards by the MASB are also applicable to waqf accounting, as conveyed

by the Accountant of JAWI and mentioned by Siti Rokyah (2004). However, the Other Procedures, according to Siti Rokyah's (2004) study, were not mentioned. When the Accountant was approached on this matter, he seemed to be not very clear about what is meant by Other Procedures.

It seems that the guidelines referred to are quite extensive; however, the lack of skill and knowledgeable manpower in accounting is also cited as the main reason why a proper accounting system was not available[82]. During the researcher's stay at the case study site, the annual report and financial statement for year 2004 had not yet been completed. However, the year 2003 annual report and financial statements had been audited.

6.6 Computerized accounting system

The Federal Territory SIRC is using a computerized accounting system named '*Sistem Kewangan dan Akaun MAIWP*' (SKEAMA) that had been developed internally since the year 2000[83]. Earlier, funds were consolidated until 2002 where separate funds for separate activities were coded, i.e. the waqf fund and *zakat* fund. The system is able to generate financial reports such as journals, ledgers, trial balance and financial statements for each fund including the consolidated financial statements for Baitulmal. A complete chart of accounts with cost centers is developed to support each funds.

[82] Informal conversation with JAWI Accountant, on June 8, 2005.
[83] Confirmed in a conversation with SIRC accounting personnel, on June 14, 2005.

6.6.1 Waqf accounts

All waqf money is consolidated in a fund called the Waqf *Amanah* Fund. The accrual basis is used in waqf accounting. It is found that there is no separation in the financial statement between the accounts of *waqf khayri* and *waqf khas*. This issue is important because it is one of the *shari'ah* requirements that any income or resources of the *waqf khas* is only applicable to specific waqf and not for other waqf. All waqf transactions are debited or credited to this account. The expenses and income will be shown in the financial statements under the General Resources unit. Only up until the trial balance are all waqf transactions still traceable. Table 6.2 on the next page shows the trial balance for the waqf fund.

Table 6.2: Waqf fund Trial Balance as at June 7, 2005

No.	Particular	Classification Code	Debit (RM)	Credit (RM)
1	Building maintenance	5	4,099.20	
2	Building insurance	5	375.36	
3	Bank commission	5	1.52	
4	Accrued rental Income	1	13,300.00	
5	Rental deposit	7		5,000.00
6	Utilities deposit	7		988.23
7	Prepayment	7		400.00
8	House rental income	8		24,600.00
9	Land rental income	8		9,000.00
10	Retained earning	9		89,457.07
11	Cash at bank	1	111,669.22	
			129,445.30	129,445.30

(Source: Federal Territory SIRC 'SKEAMA')

For waqf accounts, the classification code is 5. On the category of code, 2 for fixed assets, 5 denotes expenses, 6 for current asset, 7 for current liabilities, 8 for revenue or income and 9 for retained earnings. So, a code of account 25000820201 is for waqf house rental income. The first digit, 2, denotes a profit and loss or a balance sheet item; the second digit of 5 is for waqf funds and the sixth digit of 8 means revenue.

Transactions for waqf are mainly on rental deposits and incomes, maintenance expenses, insurance expenses, accrued rental income on waqf houses and lands, and prepaid rent. Interestingly, a retained earnings account is maintained for waqf funds and there is also a bank account specifically for waqf funds. *Waqf assets* were not accounted for because there is no assets value, therefore, it was not capitalized.

6.6.2 Waqf fixed assets

The General Resources Unit maintains the waqf assets register. However, upon investigation of the current fixed assets register[84], as at March 2005, it is found that the list contains all the necessary information except for the assets costs even though the Department of Valuation and Property Services (JPPH) provide valuation[85] of the waqf assets on an occasional basis. An observation to thc SIRC audited annual report for 2003 shows the waqf assets register[86] contained all information except the value of the assets. Therefore, the accounting system for waqf did not capture the assets value, as there is no information regarding it.

On the contrary, ad hoc revaluations of waqf assets are still done apart from the initial waqf assets revaluation have been done by a valuation company and also by JPPH under the federal government, for the last three to four years. The person in-charge confirmed

[84] Please refer to Appendix VI.
[85] JPPH provides free services for all government agencies that wish to do property valuation.
[86] Please refer to Appendix VII.

that the waqf fixed assets register is updated as and when needed. Furthermore, there has been no increase in the waqf assets for the past two years.

No provision for depreciation is made on the waqf assets although they generate rental income (Abdul Rahim et al., 1999). One of the reasons may be that the waqf assets are not being purchased and are not for sale, thus there is no financial implication on the SIRC's part (except for a small processing expense (legal fees) and the annual land tax payment). Also, for property like land, the value goes up, therefore, no depreciation or amortization is charged to the waqf asset.

Further analysis on the fixed assets register found that two *waqf khayri* and two *waqf khas* entries were not tallied between the audited waqf fixed assets register in 2003 and the March 2005 waqf fixed assets register. Therc is also one case where one *waqf khayri* asset was not listed in either of the fixed assets registers. This is a business premises located in *Taman Melawati*, Kuala Lumpur that was part of the Ahmad Dawjee waqf property.

Based on a discussion on July 1, 2005 with the Assistant Director of the General Resources Unit, it was revealed that two waqf assets are actually involved in administrative errors and two more assets have no explanation yet. Possible explanations include the assets were miscounted and files were misplaced. It was also found that the business premises in Taman Melawati were involved in a fraud involving collusion between a fake company and a lawyer. As a result, it was auctioned by the Overseas

Chinese Banking Corp. to recover a loan made using the waqf assets as collateral to obtain a RM250, 000.00 loan from the bank, which became bad. The Federal Territory SIRC had no choice but to borrow RM450, 000.00 from the *zakat* fund in order to get back the waqf asset. It cost the SIRC more than RM10, 000.00 in legal advice regarding this case. Some waqf shares owned by the Federal Territory SIRC in the London stock market backed this borrowing.

Table 6.3: Waqf assets in 2003 (audited) listing and not in 2005 listing (unaudited)

No	Ref. No	File Ref. Code	Lot No.	Location	Usage	Area s.f.
1	TWA 201	BWP 05/03 (Pers) 017	Lot 2973-3	Kg Padang Balang	Agriculture	2,722
2	TWA 204	BWP 05/03 (Pers) 009	Lot 7564	*Sek. Agama* Sentul Pasar	Building	82,764
3	TWK 1	BWP 05/04 (Pers) 006	Lot 4013	*Masjid Jamek* Abd Aziz Shah	*Masjid*	7,057
4	TWK 201	BWP 05/04 (Pers) 014	Lot 504	*Masjid Jamek* Sg Mulia	*Masjid*	5,445

Table 6.4: Analysis on waqf assets register

Type	Not listed	Total	%
Waqf khayri	2	18	11
Waqf khas	2	12	17
Total	4	30	13

Table 6.5: Waqf assets not in 2003 (audited) listing and not in 2005 listing (unaudited)

No	Ref. No	File Ref. Code	Lot No.	Location	Usage	Area s.f.
1	TWA 201	BWP 05/03 (Pers) 005/9	Lot 1	Lot 1 Jalan H3 *Fasa* 5, Taman Melawati	Shop lot	3,268

Table 6.6: Analysis on unrecorded waqf assets

Type	Not listed	Total	%
Waqf khayri	1	18	6
Waqf khas	0	12	0
Total	1	30	3

6.6.3 Waqf investments[87]

At the moment, only some investments are made out of waqf property especially the *waqf khayri* property[88]. Waqf property is controlled and monitored by the JAWI Investment and Development Division. A Chief Assistant Director (KPP) headed this division, assisted by three Assistant Directors and one Engineer. Fifteen support staff aid them at the clerical level. The division manages the waqf property in terms of rented houses or rented lands. Monthly rental payments are charged to the tenants with rates contracted earlier. A detailed list of the waqf property rented and the rental incomc is provided for reference as per Table.6.7 below. Only *waqf khayri* landed property can be rented. For example, the waqf of Ahmad Dawjee Dhadabhoy of two pieces of waqf land which are rented for RM10, 000.00 per month. Rent is not applicable for *waqf khas* i.e. *Masjid.*

There are development plans for the waqf land, to develop buildings; office buildings or service apartments (two proposals which are now being considered by the SIRC to be developed on those pieces of land) so that the waqf property's value will be increased. In

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[87] Interview with Assistant Director – Investment and Development Division (UPP), JAWI, Mr. Md. Haniff Salim on 14/06/2005 at 7th floor, *Menara Pusat Islam*.

[88] *Waqf khas* is not subject to investment; its development is strictly according to the object of the waqf by *waqif*, for example, to build a *Masjid*, *Musolla* or public religious school.

this case, the Federal Territory SIRC is not subjected to any ministry or minister approval, and the council members will determine the best alternative to enhance the waqf and its income value. The Federal Territory SIRC is acting as the trustee. The Federal Territory SIRC is also considering the risks and returns of the development, for example, if the maintenance is to be paid by the Federal Territory SIRC, then it will consume a huge part of the budget of the Federal Territory SIRC, or if the offices cannot be rented, then the holding cost will become a burden on the Federal Territory SIRC. The Federal Territory SIRC, as a trustee, is not in a position to sell the building because the waqf status might be lost if it is sold. Nevertheless, the waqf lands need to be developed, or they will stay idle, and generate a much lower income than they should have.

Another example is the proposed development of a '*Darul Qur'an*' on a piece of waqf land located in *Jalan Syed Putra*. This issue is subject to an ongoing discussion and the waqf property is still idle. Some of the other waqf landed property is also idle and the Federal Territory SIRC cited the lack of resources i.e. budget and manpower for the ebb in development. On the maintenance of some of the waqf property, the Assistant Director of the Investment and Planning Unit confirmed that maintenance expenses would be taken from the pool of the waqf rental income. It can be concluded that waqf investment for the Federal Territory SIRC is only in the form of rental income. Other investment plans are still under discussion or pending approval.

Table 6.7: Waqf Investments Rental Income

No	Property	2005 Rental (month/year)	Year of valuation	Latest value available	ROI (%)
1	No. 151, Tmn. Pelangi Jaya	400/4,800		100,000	4.80
2	No. 153, Tmn. Pelangi Jaya	400/4,800		100,000	4.80
3	No. 155, Tmn. Pelangi Jaya	400/4,800		100,000	4.80
4	No. 2A, Jln. R. Muda Musa	350/4,200	2000	77,606	5.41
5	No. 300-6B, 1-3-1, Tkt. 2, Jln. Tun Razak	500/6,000	2000	133,000	4.51
6	23-00-22, Blok C6 Bandar Baru Sentul	600/7,200		n/a	n/a
7	No. 105, Jalan H16 Taman Melawati	500/6,000	1993	84,000	7.14
8	No. 106, Jalan H16 Taman Melawati	450/5,400	1993	120,000	4.50
9	Lot 2.98, Pertama Kompleks, Jln. TAR	1,000/12,000	1992	114,000	10.53
10	Lot 2420, Malayan Mansion	495/5,940	1992	40,000	14.85
11	Lot 168 & 169, Jalan Perak	10,000/120,000	1996	27,728,925	0.43
12	P.T.113, Jln. AU2/2A, Setiawangsa	800/9,600	2000	240,000	4.00
13	Lot 1, Jln. H3, Tmn. Melawati	0	2005	450,000	0
Total Income/Assets Value		15,895/190,740		30,921,031	

Table 6.8: Analysis on investment return[89]

Period	Total income	Ratio (%)
Monthly	15,895	0.05
Yearly	190,740	0.62

[89] Based on the waqf total assets value of RM30, 921,031.00 (*Ringgit* Malaysia Thirty million nine hundred twenty one thousand and thirty one only). Please refer to Appendix VIII for the available values of some of the waqf assets, which provide the basis for the calculation.

6.7 Waqf usufructs collection and distribution

6.7.1 Collection

Unfortunately, the Federal Territory SIRC does not receive all of the total rental income every month because some tenants are not paying promptly. The highest rental collected for a month is around eighty percent out of the total RM15, 895.00, which is collectible. A few tenants have more than three to six months of rental arrears according to the income register listing as at May 2005 provided by the General Resources Unit. A review to the trial Balance (dated June 7, 2005) of the Waqf *Amanah* Fund revealed arrears of RM13, 300.00 of rental income (RM12, 900.00 for the month ended May 2005). This situation occurs because the staff of the General Resources Unit are not able (only two personnel) to handle the many duties, which thcy have to perform such as *faraidh* (inheritance) and *fidyah* (compound or penalty).

Furthermore, the Investment and Development Unit of JAWI, handles the administration and monitoring the waqf investments i.e. the waqf rental collection. The General Resources Unit should perform this role themselves for effective monitoring and control of rental collection. However, with only two personnel in that unit, it may be difficult for the unit to operate effectively unless additional manpower is acquired. As compared to this, Hoexter (1998) described that the administrator of the *waqf al haramayn* methods of collection were effective with tight follow-up of rental collection on waqf property.

6.7.2 Distribution

The Federal Territory SIRC should distribute the waqf income. However, the waqf fund trial balance showed that there were only two types of disbursement of the fund: 1) building maintenance, and 2) building insurance. It was also found that the waqf accumulated cash amounted to RM111, 669.22 as at June 7, 2005. This fund should have been used or distributed for the purpose of waqf i.e. subsistence for the poor and needy, or for the enhancement of knowledge or to develop some waqf assets. Furthermore, some portion of the waqf funds should be used for campaigns to inform the public (Muslim *ummah*) on waqf and its objectives. The promotion will create awareness on waqf and its benefits and subsequently help to increase waqf endowments.

6.8 Summary and conclusion

This study finds that the Federal Territory SIRC has improved some of the waqf practices especially in waqf record-keeping. The 'SKEAMA' computerized accounting system caters for separate and specific codes for waqf transactions, however, it is until the trial balance stage only and afterwards, there is no separation between the transactions of *waqf khayri* and *waqf khas*. The waqf property is still not included in the Federal Territory SIRC financial statements because there were no values for the waqf assets. Again, it needs to be emphasized here that these findings may not be applicable to other SIRCs, which may have some differences in terms of their enactments and practices.

The relationship of the Federal Territory SIRC, JAWI and JWZH is explained in Section 6.2, as their relationship is important in the administration and management of waqf. More campaigns and promotion of waqf to the public are beneficial to increase waqf endowments. It was noted that there has been no increase in waqf in the Federal Territory since 2003. Proper management of the existing waqf assets, especially in terms of investment, is argued to be one of the important aspects to ensure the longevity of waqf assets. In the meantime, the returns from the investment will generate enough cash flow to maintain, operate and develop the waqf property.

The most important issue here is the collection and distribution of the waqf fund. It was found that the Federal Territory SIRC has not achieved the objective of waqf by keeping a lot of cash in the bank account. It should retain a certain amount of cash as reserves but the amount should not be so high as to negate the objective of waqf in the first place. The comparison and recommendation is discussed in the next chapter.

CHAPTER 7

COMPARISON AND RECOMMENDATION

7.1 Introduction

This chapter deals with the comparisons and recommendations on how to improve the waqf administration, management and accounting practices by the Federal Territory SIRC. Section 7.2 outlines suggestions for the enhancement of waqf administration and management. In Section 7.3, some possible solutions to the challenges in waqf accounting practices are presented. These suggestions are concerned with waqf fixed assets recognition and its register. Some possible solutions for Waqf investment are presented in Section 7.4. Section 7.5 presents the recommendation for the waqf investment rental collection and its distribution. This chapter ends with a summary and conclusion.

7.2 Administration and management

The recommendations and suggestions given by this study are based on some critical analyses and evaluation of the current state of waqf affairs (in Federal Territory SIRC). The findings of this study and extant waqf literature are also taken into account. Though the case study sampled only one SIRC (Federal Territory), based on the understanding from the waqf literature, basically, other SIRCs face similar issues and problems in

performing their task as waqf trustees. Therefore, some generalization is possible in some circumstances, but not all. The Federal Territory SIRC is administered and managed by JAWI[90]. This study would like to propose that the Federal Territory SIRC should have its own overall waqf management for better coordination and more effective governance. At the moment, JAWI is handling the development and investments of waqf assets. This increases red tape (bureaucracy) and issues take a long time to resolve. As this is an important part of waqf, the Federal Territory SIRC should take the responsibility for waqf assets development and investments because they are the trustees to those assets. The council members should operate like a board of directors and they should be fully responsible for controlling and monitoring the SIRC operations.

On the documentation of records, upon document analyses of the waqf files, it was found that the filing system was an old system. However, proper references were coded for each file, thus there was proper recording and coding. The arrangement of the references is not very clear in the case of the closing of a file and opening of a continuous file, which should bear the title reference and not use a new reference. Hence, it is recommended that the Federal Territory SIRC follow the approved filing systems by the ISO for a more systematic filing system. It was also found that all waqf files contained duplicated documents, with several photocopies and it had made the file thick but of less value. Some of the paper files were already old and were torn.

[90] As in other states in Malaysia, each state's SIRC is managed by the State Islamic Department.

Therefore, it is suggested that the respective files should be replaced with hard cover file with specific reference codes for easy retrieval and future reference. A standard operating procedure (SOP) for waqf (especially in administration and accounting) should be developed in order to provide guidelines on waqf. It would help the waqf personnel in discharging their duties more effectively. At least, each of them should have a proper and up-dated Desk File and a Work Procedures Manual that will help their successor to perform their duties and improve any out-dated procedures.

In order to enhance the efficiency and effectiveness of the waqf affairs, the Federal Territory SIRC should recruit additional human resources for waqf management. These staff members should have the necessary skills and knowledge, and preferably be professionals in various fields of expertise such as the *shari'ah*, management, economics, finance, accounting, engincering and architecture. This could address the shortage of human resources and, as argued earlier, could significantly help to reduce the unemployment rate.

Coordinated efforts to develop the waqf land (which possess huge economic potential for the Muslim *Ummah*) require constitutional and law reforms, to give the *shari'ah* on waqf and the *shari'ah* court necessary status in dealing with *shari'ah* matters especially waqf. Law reform in the National Land Code is needed to facilitate the transfer of waqf land titles. Unnecessary bureaucracy (red tape) and the slow processing of the Federal Territory SIRC's applications on conversion of deceased estates for waqf should be made a priority. Thus, in order to improve the procedures, some revision is required. It will then show the public that waqf is given due priority by the government.

The revision (of the current provisions in the waqf legislations and enactments) has to include a new and comprehensive coverage, so that Muslims may waqf their properties with ease and reliability. At the moment, the Federal Territory SIRC is exempted from paying stamp duty on the transfer of land title. It is also suggested that the Federal Territory SIRC be exempted from paying land tax on waqf land as it is argued that waqf is for the benefit of society and the community, not only to of certain designated person/persons or society.

Another alternative is that JWZH should take over waqf administration and management including waqf property from each state SIRC for better coordination and management. A waqf division is then formed with a complete organizational structure and support services. It may include a few departments i.e. Administration, Finance, Investment, Waqf Development, *Shari'ah* audit and internal audit, Waqf Corporate Affairs (undertaking campaigns and promotion, liaison with the public and the international community), and a Waqf Resources Department to identify the recipients of waqf usufruct. This could contribute handsomely to reduce unemployment rate in Malaysia, especially among graduates.

Furthermore, waqf properties all over Malaysia could easily be worth over RM500 million[91]. Should it generate a 5% annual return[92], which already equal to RM25 million per year. It should suffice to cover all the administrative and managerial expenses and the

[91] Based on the assumption that each state has about RM50 million worth of waqf assets multiplied by 10 states. The other four states are discounted i.e. Sabah, Sarawak (waqf data are difficult to get), Perlis and Melaka (due to their small size).
[92] An assumption based on the minimum expected return from investments by normal investors.

excess could be reinvested to generate additional returns. The waqf institution could easily play a bigger role as a capital provider (*rabb al mal* in *mudharabah*) and joint venture (*musyarakah*) party for the Muslim entrepreneur. Some portion may also be provided to form an education trust for scholarship to deserving Muslim students seeking tertiary education. A certain amount from the waqf usufruct should be endowed, with the cooperation of any universities or NGOs, to form a Waqf Research Institute, which will act as a think tank for producing new knowledge on waqf, on how to invest and subsequently develop the waqf properties. Alternative waqf houses should be given to orphanages thus be used as *functional assets*. Some funds to run these orphan houses may also be appropriated from the waqf funds. Nonetheless, any development should take into consideration the social and environmental aspects, not be carried out only for the sake of development.

Alternatively, the waqf divisions in each state should be required to send annual reports and financial statements for JWZH review. The SIRCs should also present their annual budgets. Monthly performance review must be conducted to check on the performance of the waqf assets and investments. Proper remedial action or damage control measures should be taken immediately, in any adverse events.

A Waqf Board, consisting of representatives from the SIRCs (Islamic scholars), government and professionals i.e. in economics, management, engineering and academics, to act as an oversight committee on waqf[93] should be set up. The Waqf Board

[93] The Charity Commission acts as a control and monitoring agent towards charity trustees and charities, and any misconduct or negligence is punishable under the Charity Act.

that is suggested is a two-tier board[94], for more effective governance. The Executive Board runs the day-to-day operations and the *shari'ah* board acts as an oversight committee to monitor and check the running of the executive board. The *shari'ah* internal auditor should report directly to the *Shari'ah* board while the executive board has the internal auditors reporting to them. A consolidation meeting between the two boards should be conducted at least twice a year based on the interim financial reporting period (and results) and any corrective measures should be undertaken and reported at the subsequent meeting.

JWZH could also play the role of 'Waqf Commissioner' just like the Charity Commissioner for charity (SORP 2005). In this case, a few of the SIRC council members should be appointed on the Waqf Committee in each SIRC. At least three (odd number) members are needed (same requirement for the Audit Committee in a corporation) so that any decision can be made by a majority of two. The Waqf Committee is fully responsible for the waqf annual returns (audited) and waqf budget to be submitted to the 'Waqf Commissioner'. This will promote effective waqf governance because at the moment, the line of responsibility and accountability for waqf in the Federal Territory SIRC (other SIRC may also apply) is not very clear.

[94] The two-tier board style of corporations in Germany and Japan, a Supervisory Board and Executive Board.

7.3 Waqf accounting

This study proposed that a separate financial statement should be prepared with regards to waqf. It should contain a Statement of Waqf Activities (SOWA) and a balance sheet with the notes to the accounts as recommended by SORP 2005. It will enhance transparency and disclosure of waqf activities by the SIRC. This is important to ensure that the waqf objectives are achievable and carried out by the trustee as desired by the *waqif*. The waqf financial statements should be audited accordingly (*shari'ah* and conventional audit) and the audit should be reported in the waqf annual report. Why is a separate financial statement for waqf proposed? This is because the nature of waqf is different from that of *zakat*. For example, *zakat* has a clear guideline on its recipients, whereas for waqf, the recipients (beneficiaries) differ.

Moreover, the Statement of Waqf Activities should be further divided into two types. The accounts for *waqf khas* should not be combined with *waqf khayri* because their objectives are different. The Statement of *Waqf Khayri* Activities (*SOWKA*) for *waqf khayri* and Statement of *Waqf Khas* Activities (*SOWsA*) for *waqf khas* is proposed to replace the normal profit and loss accounts. The SORP (2005) required that *Unrestricted Funds* (similar to *waqf khayri* – for general purposes) should not be combined with the *Restricted Funds.*

In fact, each *waqf khas* should have its own account and cannot be consolidated into one entity. Therefore, separate accounts are required for each *waqf khas*. *Waqf khas* is quite

similar to the *Restricted Funds*, (for example, endowments) where the charity may only applied the funds for particular purposes i.e. the objectives of the charity (SORP 2005). All waqf income and expenditure should be credited or debited to their respective accounts. Any excess or deficit should be transferred to the balance sheet as retained reserves. This reserve should not be big because the objective of waqf is more towards the distribution not accumulation of resources.

Similar to Charity Accounts, waqf accounts should be prepared according to the timeframe given. The accounts should be reported and audited (to ensure the accountability of the trustees toward charities assets and activities are accounted for)[95]. It is hoped that it will also be applicable to the waqf accounts. This study would like to construct a sample of Statement of Waqf Activities (*waqf khayri* only) (Figure 7.1) and a balance sheet (Figure 7.2) based on the available waqf trial balance. Although the waqf funds were not distributed accordingly, the statement will include a sample of the distribution segments, complete with the ratio analysis on the income, expenses, distribution and excess. Even if the income is not sufficient to cover the distributions, the reserves will be utilized. Both figures are on the next page.

[95] CC3 'Responsibilities of Charity Trustees' No. 43 states that trustees are accountable for the solvency and continuing effectiveness of the charity and the preservation of its endowments. They must exercise overall control over its financial affairs and ensure that the charity is not open to abuse and that their systems of control are rigorous and constantly maintained.

Figure 7.1: Statement of Waqf Activities (SOWA) as at June 7, 2005

				Ratio analysis	
Income					
Land rental			24,600.00		73%
Building rental		9,000.00		27%	
			33,600.00		
Less: **expenses**					
Building maintenance		4,099.20			12%
Insurance on building		375.36			1%
Bank charges		1.52			
			(4,476.08)		13%
Less: **distribution**					
Assistant to orphanages	5,000.00				15%
Education subsistence:					
Text books	2,000.00				6%
Allowance for living	5,000.00				15%
Subsistence for the poor	8,000.00				
Contribution to Masjid	4,000.00				12%
Contribution for health costs	2,000.00				6%
			(26,000.00)		77%
Excess c/f			3,123.92		9%

Figure 7.2: Waqf Balance Sheet as at June 7, 2005

Current Asset				
Cash at bank	89,669.22			
Accrued rental income	13,300.00	98,969.22		
Less: Current Liabilities				
Rental deposit	5,000.00			
Utilities deposit	988.23			
Prepayment		400.00		(6,388.23)
Net Assets				92,580.99
Financed By:				
Accumulated cash reserves	89,457.07			
Excess c/f	3,123.92			
			92,580.99	

(Source: Waqf fund trial balance as at June 7, 2005)

In terms of accounting, Islamic accounting prefers the accrual basis (AAOIFI, 1997), as it will give a true and fair reporting of waqf affairs. However, historical cost may not be applicable as argued in the Islamic accounting theoretical framework earlier in Chapter 4. So, the value of the waqf assets (*income generating assets*) should be reported using the current value accounting except for *functional assets*. By using Current Value, it is argued that the need to provide for depreciation will diminish because it has taken into account the inflation effect. The question of who should bear the valuation costs (that was highlighted before) is not a problem anymore because the Federal Territory SIRC may utilize the services of JPPH, which provides free valuation services. Furthermore, the valuation may be applicable at least every two years for income generating assets and every five years for functional assets i.e. assets used for charitable purposes.

7.3.1 Waqf Fixed Assets

SORP 2005 recommends that charity (functional) fixed assets be recorded in the balance sheet of the charity. It has to be duly depreciated according to the fixed assets useful economic life and the expenditure recognized in the Statement of Financial Activities annually. However, an exception is made to this rule, when the asset is freehold land or maybe leasehold, as in some cases of waqf landed property held by the Federal Territory SIRC. In this case, no depreciation is applicable because the assets have a very long useful life. Also, land tends to appreciate in value due to its scarcity. Another exception is if the assets were heritage assets, for example, a very old *Masjid*, and the costs are not

traceable and it is difficult to value[96]. Other *heritage assets* which can be attributed a cost, or value, are also subject to annual depreciation.

Therefore, it is proposed that all waqf fixed assets, which may be valued should be put into the balance sheet accordingly, and where applicable, depreciated. The depreciation charges should be incorporated into the Statement of Waqf Activities. Moreover, this information will help the stakeholders, especially the Federal Territory SIRC, as the waqf trustee, to better manage and increase the level of accountability to *waqif* and ultimately to Allah *(s.w.t.)*. Following the above argument, it is also recommended that the fixed assets register should incorporate all the assets value into the listing, thus the total value of waqf property is made available in the waqf financial statements.

7.4 Waqf Investments

A mixed panel or committee for waqf investments should be formed which includes not only the council members who are Islamic scholars, but also experts in other areas such as finance and economics. The committee should observe all areas, especially risks, because a good investment takes into account proper risk management. Adequate returns should be targeted for the waqf investment because the usufruct will be used for the benefit of the Muslim *Ummah* and the investment will ensure the sustainability of the waqf assets.

[96] Other *heritage assets* that are not included in the balance sheet should be put into the notes to the accounts, giving all the necessary information to enable public access of the information for greater accountability.

It will also cover the assets maintenance expenses to ensure they are in good condition and have a longer useful life.

Table 6.7 and 6.8 on page 113 provides an analysis of the Return on Investment (ROI) of certain *waqf income generating assets*, which had been revalued from year 1992 until 2005. It shows that the returns are very low even though the rental rate is of current rate (year 2005) but the values are not. If the current value of the waqf assets were used, the ROI calculated in Table 6.7 is grossly overstated. To enable a proper investments evaluation, the current value of the property should be made available, or else the results will be misleading. It could be seen from Table 6.8 that the overall returns is less than 1%. It can be inferred that the waqf is suffering a huge opportunity costs for the waqf investments.

It is possible to say that the investments were poorly managed. An average annual return[97] of 6 to 8 percent is normal for property investments and considering the amount of **RM30, 921, 031.00** (Ringgit Malaysia Thirty million, nine hundred and twenty one thousand and thirty one only) with a 6% returns should enable the waqf to get around **RM1, 855, 262.00** per year. Instead, they are getting only **RM190, 740.00** per year, which translates into an opportunity cost of **RM1, 664, 522.00**. The return that they received was only 10% of what they are supposed to get every year. Bear in mind that the some of the revaluation were almost ten years old. So, the losses are much higher if current value is applied to all waqf property.

[97] Average annual return for Kuala Lumpur terraced house is 7.94%, detached houses is 13.8%, semi-detached houses is 11.37%, high-rise residential, lower to medium is 3.3% (Ting, 2003).

7.5 Collection and distribution of waqf usufructs

This study would like to recommend that the General Resources Unit staff coordinate the rental collection, as it would provide a more effective and efficient management. To date, the Federal Territory SIRC has not distributed the waqf usufruct accordingly. The Federal Territory SIRC should identify the waqf beneficiaries and take the necessary action to reduce the accumulation of cash reserves through proper distribution. Though it is important to maintain some cash reserves, they should not be that high since the expenditures were only on building maintenance and insurance.

7.6 Summary and conclusion

Some of the recommendations and suggestions of this study are based on SORP 2005. Whenever appropriate, own recommendations and suggestions are proposed. In fact, in much of the waqf literature, especially in theoretical papers, many recommendations and suggestions were made in order to improve the condition of waqf be it in terms of legislation, administration and management, and they were all very good[98]. What is lacking is the implementation part by the relevant waqf and its regulatory bodies.

However, this study has proposed that the waqf be completely reformed, in all material aspects such as administration and management with the focus on the waqf financial management of its properties and investments, which is deemed as the waqf nucleus.

[98] See Nik Mustapha (1999); Mohd Yusop (1999); Abdul Rahim et al., (1999); Kamarudin (1992) and Mustapha and Mat Saad (1986).

Without proper and professional management of waqf property and investments, this study opines that it is highly doubtful that the condition of waqf can improve.

Therefore, a proper revaluation of all waqf assets must be exercised and upon completion, the waqf assets should be included into the waqf financial statements accordingly. The cooperation of JPPH is needed in this proposal. The benefits that this revaluation exercise may bring include 1) Enhancing the accountability of SIRC as the waqf trustee; 2) the public should be advised on the waqf asset's status because they are one of the stakeholders; and 3) Comparison can be made between the SIRCs to evaluate their decision making effectiveness and efficiency, especially in terms of investment decisions. The conclusion of the study is presented in the next chapter.

CHAPTER 8

CONCLUSION

8.1 Introduction

Chapter Eight is the final chapter in this study. Here, the summary of the research is presented in Section 8.2. Next, policy implications of the findings are put forward in Section 8.3. Limitations of the study are discussed in Section 8.4. In the following section, suggestions for further research are proposed. Section 8.5 ends this chapter with a summary and conclusion.

8.2 Summary of the research

This study asserts that the increased understanding or the revivalism of Islam has provided a good platform for the waqf to be improved and past wrongdoings avoided (mismanagement and misappropriation of waqf property). These problems had obviously plagued waqf institutions for a few centuries. The problems include that many Muslim waqf managers (*mutawallis*) have forgotten their duties and accountabilities and have succumbed to the sinful will of evils by mismanaging and swindling waqf property. In fact, their action does not end when they die, instead, they will be made responsible and answerable for what they have and have not done in this world, in the hereafter.

Waqf was not mentioned directly in the *Qur'an*. However, many *ayat* and *ahadith* referred to waqf as closely related to recurring *sadaqah,* where Allah *(s.w.t.)* will reward good deeds in the hereafter. All the four schools of thought namely, Maliki, Hanafi, Hanbali and Shafie had also established the waqf *shari'ah*, only that there are slight differences in their interpretation. This is called *'khilaf'*. Moreover, the practice is directly traceable to the Holy Prophet *(s.a.w.)*, Abu Bakr, Umar al-Khattab and other *sahabah*. Although waqf in Malaysia is relatively new, the willingness of the pious Muslims to waqf some of their property is laudable. History has shown that waqf had been able to support and finance public goods such as education, hospitals and utilities. This research is carried out to encourage more systematic and coordinated effort among the relevant authorities and agencies to revive the waqf institution.

This study also argued that a proper framework for waqf accounting is vital to ensure the waqf property is properly accounted for. The enhanced accountability of the waqf trustee i.e. the Federal Territory SIRC may not be achieved without such a framework. The most suitable foundation should be the Islamic accounting framework, which was argued as following the *shari'ah* in all its aspects i.e. objectives and implementation. This study proposes the use of current value accounting for waqf accounting, unless, there is an adequate reason for non-application, for example, as specified in the SORP 2005 for *heritage assets*.

The recommendations from some of the previous studies to form a waqf ministry to ensure the proper coordination of waqf (i.e. Abdul Rahim et al., 1999) were finally

accepted by the government when JWZH was formed in late 2004[99]. Although not a full ministry, at least it is a beginning of further efforts to monitor, regulate and develop waqf in Malaysia. This is evident in a conference in April 2005 to discuss the possibilities of JWZH managing all waqf assets and SIRCs as the major shareholders[100]. This effort is commendable and may the best solution to effectively and efficiently manages waqf resources.

8.3 Policy implications

The findings of this study may have a few policy implications. It is hoped that the Federal Territory SIRC is willing to take into consideration the suggestions and recommendations made by this study. Hopefully, it will enhance and improve the administration, management and financial reporting of waqf. On the other hand, the formation of JWZH is eagerly awaited, as it will be the coordinating and regulating body for waqf. A more coordinated effort is necessary to utilize the full potential that the waqf has to offer.

With the '*Islam Hadhari*' that has been promoted by the present government, the relevant parties should be able to implement changes especially in the waqf *shari'ah*, whereas the law should be reformed i.e. in the land administration. Waqf accounting and reporting standards based on Islamic accounting should be the platform for waqf reports. This is

[99] See Baharuddin (1998); Nik Mustapha (1999); Mohd Yusop (1999); Abdul-Rahim et al., (1999).
[100] This information became available when the researcher was interviewing the Assistant Director on the possibilities of JWZH taking over all waqf resources or only acting as a watchdog on July 1, 2005.

important to ensure the transparency and accountability of the SIRCs as the waqf trustee is carried out accordingly.

8.4 Limitations of the study

This study has excluded the social and organizational context. The effects of culture in the religious setting are not taken into account. However, it is noted that many variables (such as culture) play a major influence in an organizational setting (see Laughlin, 1988). Laughlin (1988) further argued that accounting in religious institutions is not an entirely context free technical phenomenon. Accounting or other economic changes in some organizations is possible, within certain boundaries, however, far reaching changes can be achieved with major shifts in the social context.

Another limitation is that this study is using the Federal Territory SIRC, which is argued to be one of the most advanced SIRCs in terms of modernization in its practices; other state SIRCs may or may not be as advanced as the Federal Territory SIRC. Therefore, any recommendations and suggestions should take into consideration the situation of each SIRC. However, it can be safely inferred (from an interview and a document on waqf in Selangor) that the Selangor SIRC is more advanced in waqf administration and management having a comprehensive structure in its organizational hierarchy (Appendix IX).

8.5 Suggestion for further research

This study would like to propose a few areas for further research on waqf. It was found from the literature and from this study that financing is still one of the major problems in waqf asset development. Therefore, the cash waqf seems to be a suitable answer. Funds generated from cash waqf may be used to develop waqf property. It is free from *riba'* (interest) and other costs i.e. legal costs in acquiring a loan. At the moment, two SIRCs have the cash waqf scheme i.e. the Selangor SIRC and Pahang SIRC. A study on the methods of financing and development by cash waqf may help SIRCs to overcome shortages of funds.

The effectiveness of an SIRC may be evaluated by studying the number of assets lost in certain waqf management. As the SIRC in Malaysia is the sole trustee of waqf, a comparative study is desirable to enable waqf stakeholders especially the *waqif* to assess the accountability of SIRC in managing the waqf property. From the accounting aspect, it would be interesting to find out how the recording of assets which had been lost by the SIRC, if there are any.

Performance efficiency in terms of the collection and distribution of waqf usufructs is also an important area of study, which may be conducted on waqf. The study would assist the SIRC to evaluate the efficiency of their current operations. With regard to the efficiency of earnings generated, the study would be able to evaluate the investments policy and also methods of analyzing the required returns on investment (ROI).

A study to consider an alternative waqf structure is also important because it could provide a solution to the current waqf problems. An independent waqf should be managed by *mutawalli* appointed by *waqif* for each waqf. A Waqf Commission will supervise all waqf (same role as the CC in a charity) and the *mutawalli* should send an annual report and accounts of each waqf to the Waqf Commission for monitoring and control. The JWZH may be appointed as the Waqf Commission.

8.6 Summary and conclusion

This study concludes that there are still many weaknesses in the administration and management of financial accounting and reporting of waqf assets and resources by the Federal Territories SIRC. Some important issues include the management of waqf assets in terms of their valuation and recording, investment of waqf assets and distribution of income. However, these weaknesses, especially in the distribution of waqf usufruct, may be overcome if all parties together commit to effectively improve the waqf conditions. Support from the council members is crucial to carry out changes for improvement. This study concurs with Siti Rokyah's (2004) conclusion that the SIRCs have not properly managed the waqf financial management and reporting. However, the effort to carry out reforms will take some period of time and changes.

Despite the weaknesses and problems, the Federal Territory SIRC has successfully safeguarded waqf property entrusted to them except in one fraud case. Significant changes are necessary to develop the administration and management, especially the

financial management of waqf assets. Proper waqf accounting helps to increase the transparency and accountability of the trustee. This study argues that the stakeholders also have their roles in enhancing waqf governance. It is also urged that the idle waqf property should de developed as soon as possible to generate necessary income to serve the objectives of the waqf. Subsequently, it will generate waqf growth and stability for the benefit of the *ummah* in the Federal Territory.

It is hoped that this study would mark a new beginning for the development of waqf institutions according to the Islamic *shari'ah* in Malaysia and elsewhere. The coordinated efforts of all related parties are vital to ensure the success of waqf. May Allah *(s.w.t.)* bestow on us the guidance and show us the straight path, the path of those upon whom He has favored and not those who have gone astray. *Ameen.*

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